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LEGISLATIVE HISTORY
Public Law 91-559
H.R. 15770

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INDEX AND SUMMARY OF H.R. 15770

- Jan. 9, 1970 Rep. Andrews introduced H.R. 15770 which was referred to the Merchant Marine and Fisheries committee.
Print of bill as introduced.
- June 11, 1970 H. committee voted to report H.R. 15770
- July 16, 1970 H. committee reported with an amendment H. Rept. 91-1307
Print of bill and report.
- Oct. 5, 1970 House passed H.R. 15770 under suspension of the rules.
- Oct. 7, 1970 H.R. 15770 was referred to S. Commerce Committee.
Senate commerce committee discharged and referred H.R. 15770 to Agriculture and Forestry Committee. Print of bill as referred.
- Dec. 3, 1970 S. Committee reported H.R. 15770 without amendment.
S. Rept. 91-1393 Print of bill and report.
- Dec. 12, 1970 Senate passed H.R. 15770 as reported.
- Dec. 19, 1970 Approved: P.L. 91-559

THE HISTORY OF THE

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HL R 15770

U. S. DEPARTMENT OF AGRICULTURE

WASHINGTON, D. C.

OFFICE OF THE CHIEF OF BUREAU OF PLANT INDUSTRY
WASHINGTON, D. C.

A BILL

FOR THE PURPOSE OF
ESTABLISHING A
BUREAU OF PLANT INDUSTRY
AND A
BUREAU OF PLANT
INDUSTRY

AND FOR OTHER
PURPOSES

H. R. 15770

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 9, 1970

Mr. ANDREWS of North Dakota (for himself, Mr. KLEPPE, Mr. ZWACH, and Mr. KARTH) introduced the following bill; which was referred to the Committee on Merchant Marine and Fisheries

A BILL

To provide for conserving surface waters; to preserve and improve habitat for migratory waterfowl and other wildlife resources; to reduce runoff, soil and wind erosion, and contribute to flood control; and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Water Bank Act".

4 SEC. 2. The Congress finds that it is in the public interest
5 to preserve, restore, and improve the wetlands of the Nation,
6 and thereby to conserve surface waters, to preserve and im-
7 prove habitat for migratory waterfowl and other wildlife
8 resources, to reduce runoff, soil and wind erosion, and contrib-
9 ute to flood control, to contribute to improved water quality

1 and reduce stream sedimentation, to contribute to improved
2 subsurface moisture, to reduce acres of new land coming into
3 production and to retire lands now in agricultural produc-
4 tion, to enhance the natural beauty of the landscape, and to
5 promote comprehensive and total water management plan-
6 ning. The Secretary of Agriculture (hereinafter in this Act
7 referred to as the "Secretary") is authorized and directed
8 to formulate and carry out a continuous program to prevent
9 the serious loss of wetlands, and to preserve, restore, and im-
10 prove such lands, which program shall begin on July 1, 1971.

11 SEC. 3. In effectuating the water bank program author-
12 ized by this Act, the Secretary shall have authority to enter
13 into agreements with landowners and operators in important
14 migratory waterfowl nesting and breeding areas for the con-
15 servation of water on specified farm, ranch, or other wetlands
16 identified in a conservation plan which includes such lands,
17 under such rules and regulations as the Secretary may pre-
18 scribe. These agreements shall be entered into for a period of
19 ten years, with provision for renewal for additional periods
20 of ten years each. The Secretary shall reexamine the pay-
21 ment rates at the beginning of any such ten-year renewal
22 period in the light of the then current land and crop values
23 and make needed adjustments in rates for any such renewal
24 period. As used in this Act, the term "wetlands" means the
25 inland fresh areas (types 1 through 5) described in Circular

1 39, Wetlands of the United States, published by the United
2 States Department of the Interior. No agreement shall be
3 entered into under this Act concerning land with respect to
4 which the ownership or control has changed in the two-year
5 period preceding the first year of the agreement period un-
6 less the new ownership was acquired by will or succession as
7 a result of the death of the previous owner, or unless the new
8 ownership was acquired prior to July 1, 1971, under other
9 circumstances which the Secretary determines, and specifies
10 by regulation, will give adequate assurance that such land
11 was not acquired for the purpose of placing it in the pro-
12 gram, except that this sentence shall not be construed to pro-
13 hibit the continuation of an agreement by a new owner or
14 operator after an agreement has once been entered into under
15 this Act. A person who has operated the land to be covered
16 by an agreement under this Act for as long as two years
17 preceding the date of the agreement and who controls the
18 land for the agreement period shall not be required to own the
19 land as a condition of eligibility for entering into the agree-
20 ment. Nothing in this section shall prevent an owner or oper-
21 ator from placing land in the program if the land was ac-
22 quired by the owner or operator to replace eligible land from
23 which he was displaced because of its acquisition by any Fed-
24 eral, State, or other agency having the right of eminent do-
25 main. The Secretary shall provide adequate safeguards to

1 protect the interests of tenants and sharecroppers, including
2 provision for sharing, on a fair and equitable basis, in pay-
3 ments or compensation under this program. No provision of
4 this Act shall prevent an owner or operator who is participat-
5 ing in the program under this Act from participating in other
6 Federal or State programs designed to conserve or protect
7 wetlands.

8 SEC. 4. In the agreement between the Secretary and an
9 owner or operator, the owner or operator shall agree—

10 (1) to place in the program for the period of the
11 agreement eligible wetland areas he designates, which
12 areas may include wetlands covered by a Federal or
13 State government easement which permits agricultural
14 use, together with such adjacent areas as determined de-
15 sirable by the Secretary;

16 (2) not to drain, burn, fill, or otherwise destroy the
17 wetland character of such areas, nor to use such areas for
18 agricultural purposes, as determined by the Secretary;

19 (3) to effectuate the wetland conservation and de-
20 velopment plan for his land in accordance with the terms
21 of the agreement, unless any requirement thereof is
22 waived or modified by the Secretary pursuant to section
23 7 of this Act;

24 (4) to forfeit all rights to further payments or grants
25 under the agreement and refund to the United States all

1 payments or grants received thereunder upon his viola-
2 tion of the agreement at any stage during the time he
3 has control of the land subject to the agreement if the
4 Secretary determines that such violation is of such a
5 nature as to warrant termination of the agreement, or to
6 make refunds or accept such payment adjustments as the
7 Secretary may deem appropriate if he determines that
8 the violation by the owner or operator does not warrant
9 termination of the agreement;

10 (5) upon transfer of his right and interest in the
11 lands subject to the agreement during the agreement pe-
12 riod, to forfeit all rights to further payments or grants
13 under the agreement and refund to the United States all
14 payments or grants received thereunder unless the trans-
15 feree of any such land agrees with the Secretary to as-
16 sume all obligations of the agreement;

17 (6) not to adopt any practice specified by the Sec-
18 retary in the agreement as a practice which would tend
19 to defeat the purposes of the agreement; and

20 (7) to such additional provisions as the Secretary
21 determines are desirable and includes in the agreement
22 to effectuate the purposes of the program or to facilitate
23 its administration.

24 SEC. 5. In return for the agreement of the owner or oper-

1 ator, the Secretary shall (1) make an annual payment to
2 the owner or operator for the period of the agreement at such
3 rate or rates as the Secretary determines to be fair and rea-
4 sonable in consideration of the obligations undertaken by
5 the owner or operator; and (2) bear such part of the aver-
6 age cost of establishing and maintaining conservation and
7 development practices on the wetlands and adjacent areas for
8 the purposes of this Act as the Secretary determines to be
9 appropriate. In making his determination, the Secretary shall
10 consider, among other things, the rate of compensation neces-
11 sary to encourage owners or operators of wetlands to partici-
12 pate in the water bank program. The rate or rates of annual
13 payments as determined hereunder shall be increased, by an
14 amount determined by the Secretary to be appropriate, in re-
15 lation to the benefit to the general public of the use of the
16 wetland areas, together with designated adjacent areas, if the
17 owner or operator agrees to permit, without other compen-
18 sation, access to such acreage by the general public, during
19 the agreement period, for hunting, trapping, fishing, and
20 hiking, subject to applicable State and Federal regulations.

21 SEC. 6. Any agreement may be renewed or extended
22 at the end of the agreement period for an additional period
23 of ten years by mutual agreement of the Secretary and the
24 owner or operator, subject to any rate redetermination by
25 the Secretary. If during the agreement period the owner

1 or operator sells or otherwise divests himself of the owner-
2 ship or right of occupancy of such land, the new owner
3 or operator may continue such agreement under the same
4 terms or conditions, or enter into a new agreement in accord-
5 ance with the provisions of this Act, including the provisions
6 for renewal and adjustment of payment rates, or he may
7 choose not to participate in such program.

8 SEC. 7. The Secretary may terminate any agreement
9 by mutual agreement with the owner or operator if the
10 Secretary determines that such termination would be in the
11 public interest, and may agree to such modification of agree-
12 ments as he may determine to be desirable to carry out
13 the purposes of the program or facilitate its administration.

14 SEC. 8. In carrying out the program, the Secretary shall
15 utilize the services of local, county, and State committees
16 established under section 8 of the Soil Conservation and
17 Domestic Allotment Act, as amended. The Secretary is
18 authorized to utilize the facilities, services, authorities, and
19 funds of the Commodity Credit Corporation in discharging his
20 functions and responsibilities under this program, including
21 payment of costs of administration.

22 SEC. 9. The Secretary may, without regard to the civil
23 service laws, appoint an Advisory Board to advise and con-
24 sult on matters relating to his functions under this Act as he

1 deems appropriate. The Board shall consist of persons chosen
2 from members of organizations such as wildlife organizations,
3 land-grant colleges, farm organizations, State game and fish
4 departments, soil and water conservation district associations,
5 water management organizations, and representatives of the
6 general public. Members of such an Advisory Board who are
7 not regular full-time employees of the United States shall be
8 entitled to reimbursement on an actual expense basis for at-
9 tendance at Advisory Board meetings.

10 SEC. 10. The Secretary shall take appropriate measures
11 to insure that the program carried out pursuant to this Act
12 is in harmony with wetlands programs administered by the
13 Secretary of the Interior. He shall also, insofar as practicable,
14 consult with and utilize the technical and related services of
15 appropriate local, State, Federal, and private conservation
16 agencies to assure coordination of the program with pro-
17 grams of such agencies and a solid technical foundation for
18 the program.

19 SEC. 11. There are hereby authorized to be appropriated
20 without fiscal year limitation, such sums as may be neces-
21 sary to carry out the program authorized by this Act. In
22 carrying out the program, the Secretary shall not enter into
23 agreements with owners and operators which would require

1 payments to owners or operators in any calendar year under
2 such agreements in excess of \$10,000,000.

3 SEC. 12. The Secretary shall prescribe such regulations
4 as he determines necessary and desirable to carry out the
5 provisions of this Act.

A BILL

To provide for conserving surface waters; to preserve and improve habitat for migratory waterfowl and other wildlife resources; to reduce runoff, soil and wind erosion, and contribute to flood control; and for other purposes.

By Mr. ANDREWS of North Dakota, Mr. KLEPPE,
Mr. ZWACH, and Mr. KARTH

FEBRUARY 3, 1970
Referred to the Committee on Merchant Marine and
Fisheries

DIGEST of Congressional Proceedings

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
(FOR INFORMATION ONLY;
NOT TO BE QUOTED OR CITED)

For actions of June 11, 1970
91st-2nd; No. 96

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HIGHLIGHTS. House subcommittee approved bill prohibiting commodity imports to which pesticides have been applied. House Merchant Marine and Fisheries Committee voted to report bill clarifying Federal Aid in Wildlife Restoration Act and Federal Aid in Fish Restoration Act. Rep. Mahon inserted "'budget scorekeeping report'". Rep. Giaimo urged farm payment limitations.

HOUSE

1. PESTICIDES. An Agriculture Committee subcommittee approved for full committee action H. R. 15560, amending the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, to prohibit the importation of certain agricultural commodities to which economic poisons have been applied.
2. POSTAL REFORM. The Rules Committee granted a rule for the consideration of H. R. 17070, the postal reform bill. p. H5481

3. FISH; WILDLIFE; CONSERVATION. The Merchant Marine and Fisheries Committee voted to report (but did not actually report) H. R. 14124 amended, ~~extending the term during which fisheries loans under the Fish and Wildlife Act can be made~~; H. R. 15770 amended, providing for conserving surface water, preserving and improving habitat for migratory waterfowl and other wildlife resources, and to reduce runoff, soil and wind erosion; ~~and H. R. 12475 amended, revising and clarifying the Federal Aid in Wildlife Restoration Act and the Federal Aid in Fish Restoration Act.~~ p. D616
4. PERSONNEL. The Post Office and Civil Service Committee issued a report, "Improved Manpower Management in the Federal Government" (H. Rept. No. 91-1183). p. H5481
The Rules Committee granted a rule for the consideration of H. R. 16968, providing for the adjustment of the Government contribution to the health benefits coverage of Federal employees and annuitants. p. H5481
5. RECORDS. Concurred in the Senate amendments to H. R. 14300, facilitating the disposal of Government records and abolishing the Joint Committee on the Disposition of Executive Papers. This bill now goes to the President. p. H5436
6. MARINE POLLUTION. Both Houses received a Presidential message containing a legislative proposal to terminate certain oil leases to create a marine sanctuary (H. Doc. No. 91-349). pp. H5439, S8823
7. APPROPRIATIONS. Passed H. R. 17970, making appropriations for military construction for FY 71. pp. H5437-8, 5439-57
8. CONSUMERS. A Government Operations Committee subcommittee approved for full committee action a clean bill on consumer legislation. p. D616
9. HOUSING. Rep. Chamberlain urged action by the Rules Committee on the proposed Emergency Housing Finance Act. p. H5436
10. POLLUTION. Rep. Kuykendall inserted a speech on "The Impact of Pollution on Corporate Planning". pp. H5457-9
11. FOREIGN TRADE. Rep. Findley discussed and urged that importations of shoes and textiles not be restricted. pp. H5465-8
12. ADJOURNED. Until Monday, June 15.

SENATE

13. NATIONAL PARK; RECREATION. The Interior and Insular Affairs Committee reported S. 26, with amendments, revising the boundaries of the Canyonlands National Park, Utah (S. Rept. No. 91-923) and S. 27, with amendments, establishing the Glen Canyon National Recreation Area, Arizona and Utah (S. Rept. No. 91-924). p. S8835
Sen. Mathias inserted an article citing the necessity for review of plans for Federal parks. pp. S8875-6
Sen. Yarborough inserted 2 articles about the proposed Big Thicket National Park. pp. S8878, S8884

DIGEST of Congressional Proceedings

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
(FOR INFORMATION ONLY;
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For actions of July 16, 1970
91st-2nd; No. 120

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HIGHLIGHTS: Sen. Ellender discussed necessity of continuation of existing farm programs.
House committees reported proposed Water Bank Act and bill extending wheat referendum date.
House committee voted to report bill prohibiting importation of commodities to which pesticides have been applied.
Rep. Madden and Rep. Findley urged acceptance of \$20,000 farm payment limitation.
Sen. Scott supported separating food stamp reform legislation from the farm bill.
Rep. Mahon inserted latest "budget scorekeeping report".

SENATE

1. FARM PROGRAM. Sen. Ellender spoke of the importance of the farm program, stating that 55% of the Department of Agriculture expenditures are for services of primary benefit to the general public, with only 45% going for price supports. pp. S11546-47
2. MEAT INSPECTION. A subcommittee of the Agriculture and Forestry Committee began hearings on S. 3942 and S. 3987, to provide for inspection of all livestock products imported into the United States, receiving testimony from, among others, R. Ioanes, FAS, and Dr. Steinmetz, C&MS. p. D772
3. SECURITIES. Committee on Banking and Currency concluded hearings on S. 2348, to establish a Federal Broker-Dealer Insurance Corporation (but did not actually report at this time). p. D773
4. MORTGAGE CREDIT. House-Senate conferees, in executive session, agreed to file a conference report on S. 3685, to increase availability of mortgage credit for home financing, adopting measures to:
 - 1) reduce interest charges to savings & loan associations;
 - 2) establish a Federal Home Loan Mortgage Corp.;
 - 3) Expand special assistance funds for uses of FNMA; and
 - 4) authorize interest subsidy payments for middle income families. p. D776

HOUSE

5. AGRICULTURE COMMITTEE ACTION. Reported S. 3978, extending the date of the wheat referendum (H. Rept. No. 91-1309). p. H6895

Approved the following 8 watershed projects: Grand Prairie, Oregon; Mt. Hope, Kans.; Spring Brook, Wis.; Simon Run, Iowa; Moorhead Bayou and Panther Creek, Miss.; Starkweather, N.D.; Upper Bay River, N.C. p. D774

Voted to report (but did not actually report) HR 15560 amended, prohibiting the importation of certain agricultural commodities to which pesticides have been applied. p. D774
6. CONSERVATION. Committee on Merchant Marine and Fisheries reported with amendment HR 15770, the proposed Water Bank Act (H. Rept. No. 91-1307). p. H6895
7. WATERSHED PROJECTS. Committee on Public Works subcommittee approved for full committee action 21 watershed projects. p. D776
8. FARM PAYMENTS. Rep. Madden urged support of the Senate limitation on farm payments and inserted 2 editorials favorable to this position. pp. H6867-8
9. LANDS. Rep. Kyl discussed the Public Land Law Review Commission's report, stating the Commission "attempted to translate the abstract terms we use in discussing environment and ecology, into objectives and practices for concrete management". pp. H6891-3



WATER BANK ACT

JULY 16, 1970.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. GARMATZ, from the Committee on Merchant Marine and Fisheries, submitted the following

REPORT

[To accompany H.R. 15770]

The Committee on Merchant Marine and Fisheries, to whom was referred the bill (H.R. 15770) to provide for conserving surface waters; to preserve and improve habitat for migratory waterfowl and other wildlife resources; to reduce runoff, soil and wind erosion, and contribute to flood control; and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill, H.R. 15770, as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert the following:

That this Act may be cited as the "Water Bank Act".

SEC. 2. The Congress finds that it is in the public interest to preserve, restore, and improve the wetlands of the Nation, and thereby to conserve surface waters, to preserve and improve habitat for migratory waterfowl and other wildlife resources, to reduce runoff, soil and wind erosion, and contribute to flood control, to contribute to improved water quality and reduce stream sedimentation, to contribute to improved subsurface moisture, to reduce acres of new land coming into production and to retire lands now in agricultural production, to enhance the natural beauty of the landscape, and to promote comprehensive and total water management planning. The Secretary of Agriculture (hereinafter in this Act referred to as the "Secretary") is authorized and directed to formulate and carry out a continuous program to prevent the serious loss of wetlands, and to preserve, restore, and improve such lands, which program shall begin on July 1, 1971.

SEC. 3. In effectuating the water bank program authorized by this Act, the Secretary shall have authority to enter into agreements with landowners and operators in important migratory waterfowl nesting and breeding areas for the conservation of water on specified farm, ranch, or other wetlands identified in a conservation plan developed in cooperation with the Soil and Water Conservation District in which the lands are located, under such rules and regulations as the Secretary may prescribe. These agreements shall be entered into for a period of ten years, with provision for renewal for additional periods of ten years each. The Secretary shall reexamine the payment rates at the beginning of any such ten-year renewal period in the light of the then current land and crop values and

make needed adjustments in rates for any such renewal period. As used in this Act, the term "wetlands" means the inland fresh areas (types 1 through 5) described in Circular 39, Wetlands of the United States, published by the United States Department of the Interior (including artificially developed inland fresh areas which meet the description of inland fresh areas, types 1 through 5, contained in such Circular 39). No agreement shall be entered into under this Act concerning land with respect to which the ownership or control has changed in the two-year period preceding the first year of the agreement period unless the new ownership was acquired by will or succession as a result of the death of the previous owner, or unless the new ownership was acquired prior to July 1, 1971, under other circumstances which the Secretary determines, and specifies by regulation, will give adequate assurance that such land was not acquired for the purpose of placing it in the program, except that this sentence shall not be construed to prohibit the continuation of an agreement by a new owner or operator after an agreement has once been entered into under this Act. A person who has operated the land to be covered by an agreement under this Act for as long as two years preceding the date of the agreement and who controls the land for the agreement period shall not be required to own the land as a condition of eligibility for entering into the agreement. Nothing in this section shall prevent an owner or operator from placing land in the program if the land was acquired by the owner or operator to replace eligible land from which he was displaced because of its acquisition by any Federal, State, or other agency having the right of eminent domain. The Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers, including provision for sharing, on a fair and equitable basis, in payments or compensation under this program. No provision of this Act shall prevent an owner or operator who is participating in the program under this Act from participating in other Federal or State programs designed to conserve or protect wetlands.

SEC. 4. In the agreement between the Secretary and an owner or operator, the owner or operator shall agree—

(1) to place in the program for the period of the agreement eligible wetland areas he designates, which areas may include wetlands covered by a Federal or State government easement which permits agricultural use, together with such adjacent areas as determined desirable by the Secretary;

(2) not to drain, burn, fill, or otherwise destroy the wetland character of such areas, nor to use such areas for agricultural purposes, as determined by the Secretary;

(3) to effectuate the wetland conservation and development plan for his land in accordance with the terms of the agreement, unless any requirement thereof is waived or modified by the Secretary pursuant to section 7 of this Act;

(4) to forfeit all rights to further payments or grants under the agreement and refund to the United States all payments or grants received thereunder upon his violation of the agreement at any stage during the time he has control of the land subject to the agreement if the Secretary determines that such violation is of such a nature as to warrant termination of the agreement, or to make refunds or accept such payment adjustments as the Secretary may deem appropriate if he determines that the violation by the owner or operator does not warrant termination of the agreement;

(5) upon transfer of his right and interest in the lands subject to the agreement during the agreement period, to forfeit all rights to further payments or grants under the agreement and refund to the United States all payments or grants received thereunder during the year of the transfer unless the transferee of any such land agrees with the Secretary to assume all obligations of the agreement;

(6) not to adopt any practice specified by the Secretary in the agreement as a practice which would tend to defeat the purposes of the agreement; and

(7) to such additional provisions as the Secretary determines are desirable and includes in the agreement to effectuate the purposes of the program or to facilitate its administration.

SEC. 5. In return for the agreement of the owner or operator, the Secretary shall (1) make an annual payment to the owner or operator for the period of the agreement at such rate or rates as the Secretary determines to be fair and reasonable in consideration of the obligations undertaken by the owner or operator; and (2) bear such part of the average cost of establishing and maintaining conservation and development practices on the wetlands and adjacent areas for the purposes of this Act as the Secretary determines to be appropriate. In making

his determination, the Secretary shall consider, among other things, the rate of compensation necessary to encourage owners or operators of wetlands to participate in the water bank program. The rate or rates of annual payments as determined hereunder shall be increased, by an amount determined by the Secretary to be appropriate, in relation to the benefit to the general public of the use of the wetland areas, together with designated adjacent areas, if the owner or operator agrees to permit, without other compensation, access to such acreage by the general public, during the agreement period, for hunting, trapping, fishing, and hiking, subject to applicable State and Federal regulations.

SEC. 6. Any agreement may be renewed or extended at the end of the agreement period for an additional period of ten years by mutual agreement of the Secretary and the owner or operator, subject to any rate redetermination by the Secretary. If during the agreement period the owner or operator sells or otherwise divests himself of the ownership or right of occupancy of such land, the new owner or operator may continue such agreement under the same terms or conditions, or enter into a new agreement in accordance with the provisions of this Act, including the provisions for renewal and adjustment of payment rates, or he may choose not to participate in such program.

SEC. 7. The Secretary may terminate any agreement by mutual agreement with the owner or operator if the Secretary determines that such termination would be in the public interest, and may agree to such modification of agreements as he may determine to be desirable to carry out the purposes of the program or facilitate its administration.

SEC. 8. In carrying out the program, the Secretary may utilize the services of local, county, and State committees established under section 8 of the Soil Conservation and Domestic Allotment Act, as amended. The Secretary is authorized to utilize the facilities and services of the Commodity Credit Corporation in discharging his functions and responsibilities under this program.

SEC. 9. The Secretary may, without regard to the civil service laws, appoint an Advisory Board to advise and consult on matters relating to his functions under this Act as he deems appropriate. The Board shall consist of persons chosen from members of organizations such as wildlife organizations, land-grant colleges, farm organizations, State game and fish departments, soil and water conservation district associations, water management organizations, and representatives of the general public. Members of such an Advisory Board who are not regular full-time employees of the United States shall be entitled to reimbursement on an actual expense basis for attendance at Advisory Board meetings.

SEC. 10. The Secretary shall consult with the Secretary of the Interior and take appropriate measures to insure that the program carried out pursuant to this Act is in harmony with wetlands programs administered by the Secretary of the Interior. He shall also, insofar as practicable, consult with and utilize the technical and related services of appropriate local, State, Federal, and private conservation agencies to assure coordination of the program with programs of such agencies and a solid technical foundation for the program.

SEC. 11. There are hereby authorized to be appropriated without fiscal year limitation, such sums as may be necessary to carry out the program authorized by this Act. In carrying out the program, the Secretary shall not enter into agreements with owners and operators which would require payments to owners or operators in any calendar year under such agreements in excess of \$10,000,000.

SEC. 12. The Secretary shall prescribe such regulations as he determines necessary and desirable to carry out the provisions of this Act.

PURPOSE OF THE BILL

The purpose of H.R. 15770 is to preserve and improve habitat for migratory waterfowl and other wildlife resources. The bill also has as its purpose to reduce runoff, soil and wind erosion; to contribute to flood control and improved water quality and subsurface moisture; to reduce stream sedimentation; to promote comprehensive and total water management planning; and to reduce the number of acres of new land coming into production and to retire certain lands now in agricultural production.

In achieving these purposes, the bill would authorize the Secretary of agriculture to enter into 10-year agreements with owners and opera-

tors of wetlands in the migratory waterfowl nesting and breeding areas of the United States. In general, the agreements would provide that the owners and operators could not drain, burn, fill or otherwise destroy the wetland character of the lands under contract and could not use such lands for agricultural purposes during the contract period. In return, the Secretary would be required to make annual payments to owners and operators agreeing to place such lands under a water bank program. Annual payments would vary but would be increased proportionately where the general public would be allowed to use such areas for hunting, trapping, and hiking.

LEGISLATIVE BACKGROUND

On May 27, 1969, Congressman Andrews of North Dakota introduced H.R. 11707, known as the "Water Bank Act". Also, on May 27, 1969, Congressman Kleppe introduced an identical bill (except for the title), H.R. 11717. On June 24, 1969, Congressman Zwach introduced a similar bill, H.R. 12377, and on August 11, 1969, Congressman Karth introduced H.R. 13450, identical to H.R. 11707.

The Subcommittee on Fisheries and Wildlife Conservation held hearings on the bills on September 15 and 16, 1969. Subsequent to the hearings, Congressman John D. Dingell, Chairman of the Subcommittee, deemed it advisable that a new bill should be introduced that would incorporate many of the amendments suggested by witnesses at the hearings. Accordingly, on February 9, 1970, a clean bill was introduced, H.R. 15770, which in essence is the language of the original legislation, plus amendments. H.R. 15770 was introduced jointly by the authors of the original bills; namely, Congressmen Andrews of North Dakota, Kleppe, Zwach, and Karth.

On April 7, 1970, the Subcommittee ordered reported to the Committee on Merchant Marine and Fisheries H.R. 15770, with an amendment. This was accomplished by striking out all after the enacting clause and substituting new language.

Briefly explained, the Department of Agriculture, in its report, stated that—

The principal objective of this bill is to preserve habitat for migratory waterfowl. While determinations as to the need for such habitat are the responsibility of the Department of the Interior, which currently administers a program for this purpose, we are opposed to the establishment of a new program within the Department of Agriculture to meet this need. It seems to us that any additional waterfowl habitat needs could best be met with the context of Interior's present program.

The Department of the Interior, in its report, stated that—

We support the objectives of the bill which relate to conservation and environmental protection. However, we are opposed to enactment of legislation to establish a new wildlife habitat program to be administered separately by the Department of Agriculture.

Your Committee was impressed by the wide range of witnesses testifying at the hearings in support of the legislation. In fact, the witnesses representing both the Department of the Interior and the

Department of Agriculture strongly supported the objectives of the legislation. They expressed some reservations about the bills but did not make any recommendations concerning enactment of legislation at the time of the hearings.

Although the departmental reports were objectionable to the legislation, your Committee determined that the preponderance of evidence produced at the hearings was to the contrary and that the Water Bank program authorized by the legislation would complement existing waterfowl habitat programs carried out in both the Department of the Interior and the Department of Agriculture.

Some of the organizations supporting the legislation are as follows: National Wildlife Federation; Wildlife Management Institute; North Dakota Wildlife Federation, Farm Bureau, and Farmer's Union; National Farmers Association; National Farmers Union; Minnesota Conservation Foundation, Minnesota Association of Soil and Water Conservation Districts; State Fish and Game Departments of the States of North and South Dakota and Minnesota; Governor of the State of North Dakota; and the American Farm Bureau Federation.

After giving careful consideration to the evidence presented at the hearings and departmental reports, your Committee unanimously reported H.R. 15770, with an amendment, as ordered reported by the Subcommittee on Fisheries and Wildlife Conservation.

NEED FOR THE LEGISLATION

Each year untold acres of valuable waterfowl habitat are lost forever. These lands are rapidly disappearing because of the accelerated pace in which marshes and swamps are being ditched, dredged, drained, filled, paved, and polluted in order to meet the demands of modern civilization. These encroachments are caused by the constant need for more agricultural lands, more industrial sites, more urban housing developments, more roads, and more airports.

H.R. 15770 would provide the owners and operators of these lands, which are so valuable to migratory waterfowl, an economic alternative to such uses.

BACKGROUND AND GENERAL DISCUSSION

In 1961 the Congress enacted the Wetlands Loan Act (Public Law 87-383). The Act had as its objective the acquisition of 2.5 million acres of waterfowl habitat over a 7-year period. In 1967 the Act was extended for an additional 8 years, until June 30, 1976.

Under the original goal, it was planned to purchase 750,000 acres of waterfowl refuges and 1,750,000 acres of waterfowl production areas of small wetlands. The latter figure includes fee purchase of 600,000 acres and purchase of perpetual easements on 1,150,000 acres. From 1961 to date, fee title has been acquired by the Secretary of the Interior on approximately 318,000 acres of refuges and 183,000 acres of waterfowl production areas. Easements have been purchased on approximately 700,000 additional acres of wetlands.

Unfortunately, the program has not proceeded at the pace anticipated. First there was considerable delay in getting the program started. Second, local opposition to the program developed in certain key States because of the impact of the program on county revenues.

Third, some delay was, and still is caused by rising costs of land acquisitions. Fourth, the program never has been sufficiently funded. Fifth, the drainage of wetlands for agriculture, flood control, reclamation projects, and urban and industrial purposes has drastically reduced the number of acres that would be available for the program.

In fact, drainage of wetlands had been so extensive that by 1950, approximately half of the wetlands of the prairie pothole regions of the United States had been drained. This drainage has since continued and in North Dakota alone, approximately 45,000 acres of wetlands are being lost to drainage programs each year.

The objective of the waterfowl production area program carried out by the Secretary of the Interior is to preserve waterfowl breeding habitat by acquiring land or interests in land to prevent destruction of its wetlands character. The basic concept is to acquire the more permanent types of wetlands in fee as nucleus areas throughout the prairie pothole area. These are the deeper marshes which, barring drainage, can be expected to retain water throughout the farming season year after year. These permanent pothole areas generally include adjacent upland which increases the nesting potential of the pothole. Surrounding these nucleus areas are less permanent types of wetlands (including both shallow marshes and lands only intermittently under water) which afford additional breeding habitat during wet years, but may contain no water in drouth periods. These are the areas on which the Secretary acquires easements to prevent draining, filling, or burning of marsh vegetation. Both permanent potholes and temporary wetlands areas are necessary for maximum production.

Your Committee realizes that the Water Bank program, by attracting landowners to participate, could have some impact on the acquisition phase of the waterfowl production area program. It might make landowners somewhat less interested in selling their deeper marshes to the waterfowl production area program. It could increase to some degree the market value of the lands in the area and thus the cost of the waterfowl production area program; however, this is a result experienced with any farm support program.

Although the Water Bank program will not facilitate the acquisition of land for the waterfowl production area program, certain Water Bank provisions have great potential for increasing the waterfowl production of both the wetlands protected by the Department of the Interior easements and additional wetlands which landowners place in the Water Bank program.

Additionally, and equally important, the present waterfowl production area program with its permanent preservation of wetlands does not appeal to all farmers. Substantial numbers of these landowners can be expected to find a Water Bank program attractive. Their participation in this program will afford temporary wetland protection and new wildlife benefits on many farms which would never be reached by other programs.

Over the years the Department of Agriculture has shown a real concern for the welfare of migratory waterfowl. In fact, by providing technical assistance and cost sharing, the Department has helped farmers and ranchers build multiple purpose ponds. Ponds are being built at the rate of more than 50,000 a year. There are now more than two million such ponds in the United States. These ponds have become an extremely important element in wildlife habitat. With few

exceptions, they have brought permanent water to places where such water did not exist or was available in only small quantities. They have contributed to the increased production and improved welfare of waterfowl by creating several hundred thousands of acres of new aquatic habitat used by waterfowl for mating and nesting during the breeding season and for resting and feeding during migration. They have added to the pothole region of North Dakota, South Dakota, and Minnesota more than one hundred thousand permanent water areas. These not only help offset the drastic effect of drought years upon duck production, but they have in fact gone a long way toward compensating for the loss in duck production caused by drainage of farm lands.

Although most farm and ranch ponds are built for utilitarian purposes, many have the production of waterfowl as their primary objective and others are modified for this purpose. With cost sharing and technical assistance, the Department of Agriculture has helped landowners build or improve ponds and wetlands for wildlife. Through this encouragement, landowners have developed more than nine hundred thousand acres of wetland habitat.

The cost per acre of the various land retirement (cropland acreage diversion) programs has varied materially, depending upon the crops diverted and the quality and permitted use of the land. For example, if a high yield, high value grain crop is diverted, the payment to induce the farmer to give up the income from the crop might approach the amount that the farmer might reasonably expect as profit from producing the crop. The average payment for corn under the 1967 Cropland Adjustment Program was \$17.89 for Minnesota and \$32.75 for the United States.

Following are tables prepared by the Department of Agriculture, which illustrate the average adjustment payment rates per acre per year for selected lower value diverted crops under some of its programs:

CROPLAND ADJUSTMENT PROGRAM: (GRAZING OR HAYING NOT PERMITTED)

	1966 agreements		1967 agreements	
	Barley	Tame hay	Barley	Tame hay
Minnesota average.....	10.28	4.15	-----	5.78
South Dakota average.....	8.53	4.20	-----	6.43
U.S. average.....	10.52	4.60	-----	7.02

CROPLAND CONVERSION PROGRAM: (GRAZING PERMITTED)

	1965 agreements, row crops and small grains	1966 agreement	
		Tame hay	Wheat
Minnesota average.....	7.38	0	5.72
North Dakota average.....	5.29	0	6.17
U.S. average.....	7.12	0	5.43

CONSERVATION RESERVE PROGRAM: (GRAZING AND HAYING NOT PERMITTED)

	1965 average—Row crops, small grains, and tame hay	1969 average—Row crops, small grains, and tame hay
Minnesota average.....	10.50	11.84
North Dakota average.....	10.01	9.82
U.S. average.....	11.00	11.82

The Water Bank program to be carried out under this legislation would be in harmony with the land and water conservation activities now carried out by the Secretary of Agriculture. The ends sought would be similar—wildlife conservation, soil and water conservation, pollution abatement, and the encouragement of farmers to refrain from converting wetlands into croplands. In addition, the experience gained with several conservation practices, such as, establishing shallow water areas, constructing wildlife ponds, and establishing wildlife food plots would help insure the immediate success of the Water Bank program on eligible lands.

Further, your Committee noted that the Agriculture Appropriation Act expressly prohibits in all States the use of Agricultural Conservation Program funds for technical and cost share assistance for the drainage of wetlands, types 3, 4, and 5, as defined in Fish and Wildlife Circular 39, dated 1956. The Drainage Referral Act requires that in the States of Minnesota, North Dakota and South Dakota, requests for cost sharing assistance for drainage must be reviewed by the Department of the Interior. If it is determined that the wetland involved is of high value to wildlife, the requested drainage assistance is deferred for five years. During this period the Secretary of the Interior negotiates with the landowner for purchase or lease of the wetlands. Likewise, the Secretary of Agriculture could negotiate with the landowner with a view toward including the lands under the Water Bank program.

Your Committee feels that the opportunities to receive authorized government financial assistance on both the wetlands and other lands on their farms would encourage additional farmers to develop and carry out conservation farm plans in such a way that their lands would be managed in accordance with maximum capabilities.

WHAT THE BILL DOES: SECTION-BY-SECTION ANALYSIS

As indicated in the legislative background of this report, your Committee ordered reported to the House H.R. 15770, with an amendment. This was accomplished by striking out all after the enacting clause of the bill and substituting new language.

There follows a section-by-section summary of H.R. 15770, as amended, accompanied by discussion where appropriate.

Section 1

Section 1 of the bill would cite the legislation as the "Water Bank Act".

Section 2

Section 2 of the bill would find that it is in the public interest to preserve, restore, and improve the wetlands of the Nation. The

Secretary of Agriculture would be authorized and directed to formulate and carry out a continuous program—beginning July 1, 1971—to preserve, restore, and improve such lands. In carrying out the program, the Secretary would also strive to conserve surface waters; preserve and improve habitat for migratory waterfowl and other wildlife resources; reduce runoff, soil and wind erosion; contribute to improved water quality, flood control, and subsurface moisture; reduce stream sedimentation; reduce the number of acres of new land coming into production; and retire certain lands now in agricultural production.

Section 3

Section 3 of the bill would authorize the Secretary of Agriculture to enter into 10-year agreements—with provision for renewal for additional periods of 10 years each—with landowners and operators in important migratory nesting and breeding areas for the conservation of water on specified farm, ranch, or other wetlands identified in a conservation plan developed in cooperation with the Soil and Water Conservation District in which the lands are located. The Secretary would be required to examine the payment rates every 10 years and make appropriate adjustments in the light of the then current land and crop values.

Landowners would be required to have owned the lands for a period of at least 2 years prior to entering into such an agreement. An exception would be made if the lands were acquired by will or succession or if the lands were acquired prior to July 1, 1971, for purposes other than for placing such lands in the program. An operator of lands would be required to have controlled the lands for at least 2 years prior to an agreement and to retain control over the lands during the entire life of the agreement period.

Lands acquired by an owner or operator to replace an eligible farm, displaced because of an acquisition by eminent domain, would be eligible to be placed in the program.

Owners or operators would be authorized to participate in other Federal or State wetland programs. An excellent example would be where the Secretary of the Interior has acquired a perpetual easement over lands for migratory waterfowl purposes, with the understanding that agricultural use of such lands would be permitted.

Wetlands eligible to be placed in a program would be only those inland fresh water areas (types 1 through 5) as described in Circular 39, Wetlands of the United States, published by the Department of the Interior. Artificially developed inland fresh water areas which meet the description of inland fresh water areas, types 1 through 5, would also be eligible.

Briefly explained, inland fresh areas, types 1-5, as defined in Circular 39 are as follows: (1) seasonally flooded basins or flats; (2) fresh meadows; (3) shallow fresh meadows; (4) deep fresh marshes; and (5) open fresh water. There are approximately 14 million acres of inland fresh areas, types 1-5, scattered throughout the United States which are rated as of primary importance for waterfowl purposes. These areas occur principally in North Dakota, South Dakota, and Minnesota and are often referred to as the pothole region.

Section 4

Section 4 of the bill would specify certain conditions to which an owner or operator would have to agree in any agreement entered into with the Secretary of Agriculture. They are as follows:

(1) To place in the program certain designated wetlands together with adjacent areas as may be determined desirable by the Secretary. Such adjacent areas may include lands under easement to a State or Federal government which permit agricultural use.

Your Committee feels that migratory waterfowl will benefit considerably from any adjacent areas placed in the program. This fringe and additional buffer upland area around a pothole or wetland not being used for agricultural purposes would provide food, vegetation, nesting cover, and protection, greatly increasing the full wildlife potential of the pothole and its environs.

(2) Not to drain, burn, fill or otherwise destroy such lands nor to use such lands for agricultural purposes.

The draining, burning and filling requirements would be identical to the rights now acquired by the Secretary of the Interior in the purchase of migratory waterfowl production area easements.

With respect to agricultural purposes, the parent bills, as introduced, would permit a landowner or operator to reserve the right to use lands in the program for such purposes.

To accomplish the objectives of the Water Bank program and at the same time be compatible with the easement acquisition program carried out by the Secretary of the Interior, your Committee deemed it necessary to eliminate the agriculture use feature and accordingly amended H.R. 15770 to eliminate this option. Your Committee believes that the Secretary of Agriculture should administer the Water Bank program in such a way that payment rates would not be discriminatory against landowners from whom easement interests have already been acquired. Otherwise, that acquisition program could be seriously hampered.

(3) To effectuate the wetland conservation plan in accordance with the agreement, unless certain requirements are waived by the Secretary.

(4) To forfeit all rights to future payments and grants and to refund all payments and grants received upon his violation of the agreement. The Secretary would have the authority to waive termination of the agreement and to accept reduced refund payments if he determines the violation does not warrant termination of the agreement.

(5) Upon transfer of the lands during the agreement period to forfeit all rights to future payments or grants and to refund all payments or grants received during the year of transfer, unless the transferee agrees to honor the agreement.

H.R. 15770, as introduced, would require the owner or operator upon a transfer to refund to the Secretary all payments or grants received under the agreement prior to the transfer. Your Committee deemed this provision to be a severe imposition. The government would have benefited from the use of the lands prior to the transfer, therefore, your Committee believes that in the interest of the program a refund of payments or grants only during the year of transfer would be sufficient to deter such transfers.

(6) Not to adopt any practice specified by the Secretary which would tend to defeat the purposes of the agreement.

(7) To such additional provisions as the Secretary may deem desirable to effectuate the program and facilitate its administration.

Section 5

Section 5 of the bill—in return for the agreement of the owner or operator—would require the Secretary of Agriculture (1) to make reasonable annual payments to such owners or operators and in addition, (2) to bear an appropriate part of the average cost of establishing and maintaining conservation and development practices on the lands and adjacent areas as the Secretary may determine to be appropriate.

In making his determination, the Secretary would be required to consider, among other things, the rate of compensation necessary to encourage owners or operators to participate under the program; the benefits to be derived by the general public from the use of such areas; and any additional privileges that may be accorded the general public by the owners or operators, such as access to such acreage during the agreement period for hunting, trapping, fishing, and hiking.

Public access is now free in some States or areas. Your Committee would like to make it clear that it expects the Secretary of Agriculture to encourage landowners in those areas to continue to provide free public access. Since the access payment provision is optional, your Committee is most hopeful that the Secretary would administer the program in such a way as to make increased payments for this privilege only in those States or areas where public access is not now free.

Section 6

Section 6 of the bill would authorize the Secretary and the owner or operator at the end of an agreement period by mutual agreement to extend or renew the agreement for an additional period of 10 years. The renewed or extended agreement would be made subject to any rate redetermination by the Secretary. However, the Secretary would not be authorized to unilaterally change the rate as there must be mutual agreement before there is an extension or renewal. Should it develop that certain features of the agreement should be modified because of omissions in the original agreement or because of the inclusion of certain items that should be eliminated, likewise the Secretary should take these matters into consideration and mutually agree to any changes before extending or renewing the agreement.

Also, Section 6 of the bill would provide that should the owner or operator sell or otherwise divest himself of the ownership or control over the lands during the agreement period, the new owner or operator would be allowed the following options: (1) to continue such agreement under the same terms and conditions; (2) to enter into a new agreement in accordance with the provisions of this Act; or (3) to choose not to participate in such program.

Your Committee realizes that the latter option—to choose not to participate in such a program—may appear to defeat the purpose of the bill. However, your Committee felt that the overall advantages that would be derived from such a provision necessitated its inclusion. An elderly owner planning to dispose of his lands in 2 or 3 years would be hesitant to put his lands under an agreement for a 10-year period. However, with such a provision in the agreement, the Secre-

tary would likely be able to encourage him to enter into such an agreement. Once under the program, your Committee believes the Secretary could make it sufficiently attractive to the next owner to encourage retention of the lands under a new or extended agreement.

Section 7

Section 7 of the bill would authorize the Secretary of Agriculture to terminate any agreement—by mutual agreement with the owner or operator—if the Secretary determines that such termination would be in the public interest.

Also, Section 7 would authorize the Secretary to agree to a modification of an agreement if he should determine that such modification would be desirable.

Section 8

Section 8 of the bill would authorize the Secretary of Agriculture to utilize the services of local, county, and State Committees established under Section 8 of the Soil Conservation and Domestic Allotment Act, as amended.

These committees are the ones which presently administer the Agricultural Conservation Program, the Cropland Adjustment Program, and the Annual Adjustment Programs. These committees could make an invaluable contribution to the program.

In addition, Section 8 would authorize the Secretary to utilize the facilities and services of the Commodity Credit Corporation in carrying out his functions and responsibilities under the program. This provision also would provide valuable assistance to the program. It would permit the utilization of their computerized equipment, accounting and fiscal records. It would result in making the program uniform with other similar programs administered under the Soil Conservation and Domestic Allotment Act.

Section 9

Section 9 of the bill would authorize the Secretary of Agriculture to appoint an Advisory Board—whose membership would represent various related interests—to advise him on matters relating to his functions under the Act. Members of the Board who are not regular full-time employees of the United States would be reimbursed on an actual expense basis for attendance at Board meetings.

Section 10

Section 10 of the bill would require the Secretary of Agriculture to consult with the Secretary of the Interior and take appropriate measures to insure that the program authorized by this Act would be carried out in harmony with the wetlands programs administered by the Secretary of the Interior.

Your Committee deems this provision most important. The nation's principal wildlife conservation officer is the Secretary of the Interior and it is he who is charged with the primary responsibility of carrying out a program for migratory waterfowl. This responsibility is exercised mainly through acquisitions—both by purchase and easement—of valuable migratory waterfowl habitat throughout the United States. Consequently, if it is to be successful, it is essential that the Secretary of Agriculture and the Secretary of the Interior work closely in carrying out the program authorized by this legislation.

Also, Section 10 would require the Secretary of Agriculture to consult with and utilize the technical and related services of appropriate local, State, Federal, and private conservation agencies. These agencies usually have similar programs underway. To assure coordination of the Water Bank program with the programs of such agencies your Committee feels it is essential that these organizations work closely together.

Section 11

Section 11 of the bill would authorize to be appropriated without fiscal year limitation such sums as may be necessary to carry out the program authorized by the Act. However, the Secretary of Agriculture would not be authorized to enter into agreements that would require payments to owners or operators in any calendar year in excess of \$10 million.

Section 12

Section 12 of the bill would authorize the Secretary of Agriculture to prescribe such regulations as he may determine to be necessary to carry out the provisions of the Act.

COST OF THE LEGISLATION

There is authorized to be appropriated such sums as may be necessary to carry out the program authorized by the legislation. However, the Secretary of Agriculture would not be authorized to make payments to contracting owners and operators in any calendar year in excess of \$10 million.

CHANGES IN EXISTING LAW

If enacted, this bill would make no change in existing law.

DEPARTMENTAL REPORTS

) Departmental reports received on the legislation are as follows:

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., July 7, 1970.

HON. EDWARD A. GARMATZ,
Chairman, Committee on Merchant Marine and Fisheries,
House of Representatives.

DEAR MR. CHAIRMAN: This is in response to your request of February 10, 1970, for a report on H.R. 15770.

The purposes of this bill as stated in Section 2 are to preserve, restore, and improve the wetlands of the Nation, and thereby to conserve surface waters, to preserve and improve habitat for migratory waterfowl and other wildlife resources, to reduce runoff, soil and wind erosion, and contribute to flood control, to contribute to improved water quality and reduce stream sedimentation, to contribute to improved subsurface moisture, to reduce acres of new land coming into production and to retire lands now in agricultural production, to enhance the natural beauty of the landscape, and to promote comprehensive and total water management planning.

The bill proposes that this Act be known as the "Water Bank Act." The water bank program authorized by the Act would be effectuated by the Secretary of Agriculture entering into agreements with landowners and operators for the conservation of specified wetlands. The agreements would be for ten years with provision for renewal for additional ten-year periods. During the period of the agreement, the landowner agrees not to drain, burn, fill or otherwise destroy the wetland areas, not to use such areas for agricultural purposes, as determined by the Secretary. In return for the agreement the Secretary of Agriculture would make payments to the owner or operator. The rate of annual payments would be determined by the Secretary and may be increased if the owner or operator agrees to permit, without other compensation, access by the general public for hunting, trapping, fishing and hiking. The bill also authorizes the Secretary to share the cost of establishing and maintaining conservation and development practices on the wetlands and adjacent areas.

The bill requires the Secretary to carry out its provisions in harmony with wetlands programs administered by the Secretary of the Interior and to utilize the technical and related services of appropriate State, Federal, and private conservation agencies to insure proper coordination.

The principal objective of this bill is to preserve habitat for migratory waterfowl. While determinations as to the need for such habitat are the responsibility of the Department of the Interior, which currently administers a program for this purpose, we are opposed to the establishment of a new program within the Department of Agriculture to meet this need. It seems to us that any additional waterfowl habitat needs, could best be met within the context of Interior's present program.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

J. PHIL CAMPBELL, *Under Secretary.*

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., July 7, 1970.

HON. EDWARD A. GARMATZ,
Chairman, Committee on Merchant Marine and Fisheries, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This responds to your request for the views of this Department on H.R. 15770, a bill "To provide for conserving surface waters; to preserve and improve habitat for migratory waterfowl and other wildlife resources; to reduce runoff, soil and wind erosion, and contribute to flood control; and for other purposes." We understand that the bill supersedes H.R. 11707, H.R. 11717, and H.R. 12317, similar bills, upon which we commented in a report of September 12, 1969.

We support the objectives of the bill which relate to conservation and environmental protection. However, we are opposed to enactment of legislation to establish a new wildlife habitat program to be administered separately by the Department of Agriculture.

The bill, which is designed to conserve land and water resources, among other objectives, authorizes the Secretary of Agriculture to enter into agreements with producers in the migratory waterfowl nesting and breeding areas of the United States for the purpose of conserving water in farm, ranch, or other wetlands. The bill provides for a 10-year agreement period, with a provision for added 10-year extensions. In general, under these agreements, a producer agrees not to drain, burn, fill or otherwise destroy the wetland character of a designated wetland area during the agreed period. During the period he is to carry out a conservation and development plan he agrees to. In return, the Secretary will make an annual payment to the owner or operator and bear an appropriate share of the conservation and development costs. Such payment will be increased appropriately where the general public is allowed to use the wetland area for hunting, trapping, fishing and hiking.

The bill also provides for coordination with other Federal agricultural programs, for appointment of an advisory board, for coordination with local, state, Federal, and private conservation agencies, and particularly for appropriate measures to insure that the program is in harmony with wetland programs administered by the Secretary of the Interior.

We are not aware of any need for a new and separate program to promote conservation of waterfowl habitat. We believe that existing authority available to this Department for its on-going programs of waterfowl habitat preservation is adequate for the waterfowl habitat purposes of H.R. 15770. In our opinion, these programs would be prejudiced rather than helped by the establishment of overlapping and competing programs in another Department.

The draining, filling, and burning, which the landowner will agree to forego under a water bank contract, are like the rights the United States now acquires in the purchase of waterfowl production area easements by the Bureau of Sport Fisheries and Wildlife of this Department in its accelerated program of waterfowl land acquisition made possible by the Act of October 4, 1961 (75 Stat. 813), as amended by the Act of December 15, 1967 (81 Stat. 612; 16 U.S.C. 715k-3 and 715k-5). This accelerated program has the objective of protecting, by acquisition, 2,500,000 acres of waterfowl habitat by July 1976. Planned acquisition includes fee purchase of 750,000 acres of waterfowl refuges and 600,000 acres of waterfowl production areas, plus purchase of perpetual easements on 1,150,000 more acres of production areas. Since 1961, fee title has been acquired to 318,000 acres of refuges and 183,000 acres of small wetlands, and permanent easements have been obtained on over 700,000 acres of wetlands for a combined cost of \$73,000,000. Wetlands, nationwide, have many values, including storage of ground and surface waters for valuable wildlife habitat, recreation, ecological studies, and other purposes.

Enactment of the bill might result in situations where applications would be difficult because of developments under the program of the Bureau of Reclamation of this Department. For example, participation of farmers in the water bank program within a reclamation project could be influenced by landowner obligations for repayment of project construction and O&M costs. In addition, where project lands were included within a comprehensive drainage system, wetland maintenance might be beyond the control of individual landowners.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

FRED J. RUSSELL,
Under Secretary of the Interior.

○

Union Calendar No. 622

91ST CONGRESS
2^D SESSION

H. R. 15770

[Report No. 91-1307]

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 9, 1970

Mr. ANDREWS of North Dakota (for himself, Mr. KLEPPE, Mr. ZWACH, and Mr. KARTH) introduced the following bill; which was referred to the Committee on Merchant Marine and Fisheries

JULY 16, 1970

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To provide for conserving surface waters; to preserve and improve habitat for migratory waterfowl and other wildlife resources; to reduce runoff, soil and wind erosion, and contribute to flood control; and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this ~~Act~~ may be cited as the "Water Bank Act".

4 ~~SEC. 2.~~ The Congress finds that it is in the public interest
5 to preserve, restore, and improve the wetlands of the Nation,
6 and thereby to conserve surface waters, to preserve and im-
7 prove habitat for migratory waterfowl and other wildlife

1 resources, to reduce runoff, soil and wind erosion, and contrib-
2 ute to flood control, to contribute to improved water quality
3 and reduce stream sedimentation, to contribute to improved
4 subsurface moisture, to reduce acres of new land coming into
5 production and to retire lands now in agricultural produc-
6 tion, to enhance the natural beauty of the landscape, and to
7 promote comprehensive and total water management plan-
8 ning. The Secretary of Agriculture (hereinafter in this Act
9 referred to as the "Secretary") is authorized and directed
10 to formulate and carry out a continuous program to prevent
11 the serious loss of wetlands, and to preserve, restore, and im-
12 prove such lands, which program shall begin on July 1, 1971.

13 SEC. 3. In effectuating the water bank program author-
14 ized by this Act, the Secretary shall have authority to enter
15 into agreements with landowners and operators in important
16 migratory waterfowl nesting and breeding areas for the con-
17 servation of water on specified farm, ranch, or other wetlands
18 identified in a conservation plan which includes such lands,
19 under such rules and regulations as the Secretary may pre-
20 scribe. These agreements shall be entered into for a period of
21 ten years, with provision for renewal for additional periods
22 of ten years each. The Secretary shall reexamine the pay-
23 ment rates at the beginning of any such ten-year renewal
24 period in the light of the then current land and crop values
25 and make needed adjustments in rates for any such renewal

1 period. As used in this Act, the term "wetlands" means the
2 inland fresh areas (types 1 through 5) described in Circular
3 39, Wetlands of the United States, published by the United
4 States Department of the Interior. No agreement shall be
5 entered into under this Act concerning land with respect to
6 which the ownership or control has changed in the two-year
7 period preceding the first year of the agreement period un-
8 less the new ownership was acquired by will or succession as
9 a result of the death of the previous owner, or unless the new
10 ownership was acquired prior to July 1, 1971, under other
11 circumstances which the Secretary determines, and specifies
12 by regulation, will give adequate assurance that such land
13 was not acquired for the purpose of placing it in the pro-
14 gram, except that this sentence shall not be construed to pro-
15 hibit the continuation of an agreement by a new owner or
16 operator after an agreement has once been entered into under
17 this Act. A person who has operated the land to be covered
18 by an agreement under this Act for as long as two years
19 preceding the date of the agreement and who controls the
20 land for the agreement period shall not be required to own the
21 land as a condition of eligibility for entering into the agree-
22 ment. Nothing in this section shall prevent an owner or oper-
23 ator from placing land in the program if the land was ac-
24 quired by the owner or operator to replace eligible land from
25 which he was displaced because of its acquisition by any

1 Federal, State, or other agency having the right of eminent
2 domain. The Secretary shall provide adequate safeguards to
3 protect the interests of tenants and sharecroppers, including
4 provision for sharing, on a fair and equitable basis, in pay-
5 ments or compensation under this program. No provision of
6 this Act shall prevent an owner or operator who is partici-
7 pating in the program under this Act from participating in
8 other Federal or State programs designed to conserve or
9 protect wetlands.

10 SEC. 4. In the agreement between the Secretary and an
11 owner or operator, the owner or operator shall agree—

12 ~~(1)~~ to place in the program for the period of the
13 agreement eligible wetland areas he designates, which
14 areas may include wetlands covered by a Federal or
15 State government easement which permits agricultural
16 use, together with such adjacent areas as determined
17 desirable by the Secretary;

18 ~~(2)~~ not to drain, burn, fill, or otherwise destroy the
19 wetland character of such areas, nor to use such areas
20 for agricultural purposes, as determined by the Secre-
21 tary;

22 ~~(3)~~ to effectuate the wetland conservation and de-
23 velopment plan for his land in accordance with the terms
24 of the agreement, unless any requirement thereof is
25 waived or modified by the Secretary pursuant to section
26 7 of this Act;

1 ~~(4)~~ to forfeit all rights to further payments or grants
2 under the agreement and refund to the United States all
3 payments or grants received thereunder upon his viola-
4 tion of the agreement at any stage during the time he
5 has control of the land subject to the agreement if the
6 Secretary determines that such violation is of such a
7 nature as to warrant termination of the agreement, or to
8 make refunds or accept such payment adjustments as the
9 Secretary may deem appropriate if he determines that
10 the violation by the owner or operator does not warrant
11 termination of the agreement;

12 ~~(5)~~ upon transfer of his right and interest in the
13 lands subject to the agreement during the agreement pe-
14 riod, to forfeit all rights to further payments or grants
15 under the agreement and refund to the United States all
16 payments or grants received thereunder unless the trans-
17 feree of any such land agrees with the Secretary to as-
18 sume all obligations of the agreement;

19 ~~(6)~~ not to adopt any practice specified by the Sec-
20 retary in the agreement as a practice which would tend
21 to defeat the purposes of the agreement; and

22 ~~(7)~~ to such additional provisions as the Secretary
23 determines are desirable and includes in the agreement
24 to effectuate the purposes of the program or to facilitate
25 its administration.

1 SEC. 5. In return for the agreement of the owner or oper-
2 ator, the Secretary shall ~~(1)~~ make an annual payment to
3 the owner or operator for the period of the agreement at such
4 rate or rates as the Secretary determines to be fair and rea-
5 sonable in consideration of the obligations undertaken by
6 the owner or operator; and ~~(2)~~ bear such part of the aver-
7 age cost of establishing and maintaining conservation and
8 development practices on the wetlands and adjacent areas for
9 the purposes of this Act as the Secretary determines to be
10 appropriate. In making his determination, the Secretary shall
11 consider, among other things, the rate of compensation neces-
12 sary to encourage owners or operators of wetlands to partici-
13 pate in the water bank program. The rate or rates of annual
14 payments as determined hereunder shall be increased, by an
15 amount determined by the Secretary to be appropriate, in
16 relation to the benefit to the general public of the use of the
17 wetland areas, together with designated adjacent areas, if the
18 owner or operator agrees to permit, without other compen-
19 sation, access to such acreage by the general public, during
20 the agreement period, for hunting, trapping, fishing, and
21 hiking, subject to applicable State and Federal regulations.

22 SEC. 6. Any agreement may be renewed or extended
23 at the end of the agreement period for an additional period
24 of ten years by mutual agreement of the Secretary and the
25 owner or operator, subject to any rate redetermination by

1 the Secretary. If during the agreement period the owner
2 or operator sells or otherwise divests himself of the owner-
3 ship or right of occupancy of such land, the new owner
4 or operator may continue such agreement under the same
5 terms or conditions, or enter into a new agreement in accord-
6 ance with the provisions of this Act, including the provisions
7 for renewal and adjustment of payment rates; or he may
8 choose not to participate in such program.

9 SEC. 7. The Secretary may terminate any agreement
10 by mutual agreement with the owner or operator if the
11 Secretary determines that such termination would be in the
12 public interest, and may agree to such modification of agree-
13 ments as he may determine to be desirable to carry out
14 the purposes of the program or facilitate its administration.

15 SEC. 8. In carrying out the program, the Secretary shall
16 utilize the services of local, county, and State committees
17 established under section 8 of the Soil Conservation and
18 Domestic Allotment Act, as amended. The Secretary is
19 authorized to utilize the facilities, services, authorities, and
20 funds of the Commodity Credit Corporation in discharging his
21 functions and responsibilities under this program, including
22 payment of costs of administration.

23 SEC. 9. The Secretary may, without regard to the civil
24 service laws, appoint an Advisory Board to advise and con-
25 sult on matters relating to his functions under this Act as he

1 deems appropriate. The Board shall consist of persons chosen
2 from members of organizations such as wildlife organizations,
3 land-grant colleges, farm organizations, State game and fish
4 departments, soil and water conservation district associations,
5 water management organizations, and representatives of the
6 general public. Members of such an Advisory Board who are
7 not regular full-time employees of the United States shall be
8 entitled to reimbursement on an actual expense basis for at-
9 tendance at Advisory Board meetings.

10 SEC. 10. The Secretary shall take appropriate measures
11 to insure that the program carried out pursuant to this Act
12 is in harmony with wetlands programs administered by the
13 Secretary of the Interior. He shall also, insofar as practicable,
14 consult with and utilize the technical and related services of
15 appropriate local, State, Federal, and private conservation
16 agencies to assure coordination of the program with pro-
17 grams of such agencies and a solid technical foundation for
18 the program.

19 SEC. 11. There are hereby authorized to be appropriated
20 without fiscal year limitation, such sums as may be neces-
21 sary to carry out the program authorized by this Act. In
22 carrying out the program, the Secretary shall not enter into
23 agreements with owners and operators which would require
24 payments to owners or operators in any calendar year under
25 such agreements in excess of \$10,000,000.

1 ~~SEC. 12.~~ The Secretary shall prescribe such regulations
2 as he determines necessary and desirable to carry out the
3 provisions of this Act.

4 *That this Act may be cited as the "Water Bank Act".*

5 *SEC. 2. The Congress finds that it is in the public interest*
6 *to preserve, restore, and improve the wetlands of the Nation,*
7 *and thereby to conserve surface waters, to preserve and im-*
8 *prove habitat for migratory waterfowl and other wildlife*
9 *resources, to reduce runoff, soil and wind erosion, and contrib-*
10 *ute to flood control, to contribute to improved water quality*
11 *and reduce stream sedimentation, to contribute to improved*
12 *subsurface moisture, to reduce acres of new land coming into*
13 *production and to retire lands now in agricultural produc-*
14 *tion, to enhance the natural beauty of the landscape, and to*
15 *promote comprehensive and total water management plan-*
16 *ning. The Secretary of Agriculture (hereinafter in this Act*
17 *referred to as the "Secretary") is authorized and directed*
18 *to formulate and carry out a continuous program to prevent*
19 *the serious loss of wetlands, and to preserve, restore, and im-*
20 *prove such lands, which program shall begin on July 1, 1971.*

21 *SEC. 3. In effectuating the water bank program author-*
22 *ized by this Act, the Secretary shall have authority to enter*
23 *into agreements with landowners and operators in important*
24 *migratory waterfowl nesting and breeding areas for the con-*
25 *servation of water on specified farm, ranch, or other wetlands*

1 identified in a conservation plan developed in cooperation
2 with the Soil and Water Conservation District in which the
3 lands are located, under such rules and regulations as the
4 Secretary may prescribe. These agreements shall be entered
5 into for a period of ten years, with provision for renewal
6 for additional periods of ten years each. The Secretary
7 shall reexamine the payment rates at the beginning of any
8 such ten-year renewal period in the light of the then current
9 land and crop values and make needed adjustments in rates
10 for any such renewal period. As used in this Act, the term
11 "wetlands" means the inland fresh areas (types 1 through 5)
12 described in Circular 39, Wetlands of the United States,
13 published by the United States Department of the Interior
14 (including artificially developed inland fresh areas which
15 meet the description of inland fresh areas, types 1 through
16 5, contained in such Circular 39). No agreement shall be
17 entered into under this Act concerning land with respect to
18 which the ownership or control has changed in the two-year
19 period preceding the first year of the agreement period un-
20 less the new ownership was acquired by will or succession as
21 a result of the death of the previous owner, or unless the new
22 ownership was acquired prior to July 1, 1971, under other
23 circumstances which the Secretary determines, and specifies
24 by regulation, will give adequate assurance that such land
25 was not acquired for the purpose of placing it in the pro-

1 gram, except that this sentence shall not be construed to pro-
2 hibit the continuation of an agreement by a new owner or
3 operator after an agreement has once been entered into under
4 this Act. A person who has operated the land to be covered
5 by an agreement under this Act for as long as two years
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7 land for the agreement period shall not be required to own the
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11 quired by the owner or operator to replace eligible land from
12 which he was displaced because of its acquisition by any Fed-
13 eral, State, or other agency having the right of eminent do-
14 main. The Secretary shall provide adequate safeguards to
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16 provision for sharing, on a fair and equitable basis, in pay-
17 ments or compensation under this program. No provision of
18 this Act shall prevent an owner or operator who is participat-
19 ing in the program under this Act from participating in other
20 Federal or State programs designed to conserve or protect
21 wetlands.

22 SEC. 4. In the agreement between the Secretary and an
23 owner or operator, the owner or operator shall agree—

24 (1) to place in the program for the period of the
25 agreement eligible wetland areas he designates, which

1 areas may include wetlands covered by a Federal or
2 State government easement which permits agricultural
3 use, together with such adjacent areas as determined de-
4 sirable by the Secretary;

5 (2) not to drain, burn, fill, or otherwise destroy the
6 wetland character of such areas, nor to use such areas for
7 agricultural purposes, as determined by the Secretary;

8 (3) to effectuate the wetland conservation and de-
9 velopment plan for his land in accordance with the terms
10 of the agreement, unless any requirement thereof is
11 waived or modified by the Secretary pursuant to section
12 7 of this Act;

13 (4) to forfeit all rights to further payments or grants
14 under the agreement and refund to the United States all
15 payments or grants received thereunder upon his viola-
16 tion of the agreement at any stage during the time he
17 has control of the land subject to the agreement if the
18 Secretary determines that such violation is of such a
19 nature as to warrant termination of the agreement, or to
20 make refunds or accept such payment adjustments as the
21 Secretary may deem appropriate if he determines that
22 the violation by the owner or operator does not warrant
23 termination of the agreement;

24 (5) upon transfer of his right and interest in the
25 lands subject to the agreement during the agreement pe-

1 *riod, to forfeit all rights to further payments or grants*
2 *under the agreement and refund to the United States all*
3 *payments or grants received thereunder during the year*
4 *of the transfer unless the transferee of any such land*
5 *agrees with the Secretary to assume all obligations of*
6 *the agreement;*

7 *(6) not to adopt any practice specified by the Sec-*
8 *retary in the agreement as a practice which would tend*
9 *to defeat the purposes of the agreement; and*

10 *(7) to such additional provisions as the Secretary*
11 *determines are desirable and includes in the agreement*
12 *to effectuate the purposes of the program or to facilitate*
13 *its administration.*

14 *SEC. 5. In return for the agreement of the owner or*
15 *operator, the Secretary shall (1) make an annual payment to*
16 *the owner or operator for the period of the agreement at such*
17 *rate or rates as the Secretary determines to be fair and rea-*
18 *sonable in consideration of the obligations undertaken by*
19 *the owner or operator; and (2) bear such part of the aver-*
20 *age cost of establishing and maintaining conservation and*
21 *development practices on the wetlands and adjacent areas for*
22 *the purposes of this Act as the Secretary determines to be*
23 *appropriate. In making his determination, the Secretary shall*
24 *consider, among other things, the rate of compensation neces-*
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2 *payments as determined hereunder shall be increased, by an*
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8 *the agreement period, for hunting, trapping, fishing, and*
9 *hiking, subject to applicable State and Federal regulations.*

10 *SEC. 6. Any agreement may be renewed or extended*
11 *at the end of the agreement period for an additional period*
12 *of ten years by mutual agreement of the Secretary and the*
13 *owner or operator, subject to any rate redetermination by*
14 *the Secretary. If during the agreement period the owner*
15 *or operator sells or otherwise divests himself of the owner-*
16 *ship or right of occupancy of such land, the new owner*
17 *or operator may continue such agreement under the same*
18 *terms or conditions, or enter into a new agreement in accord-*
19 *ance with the provisions of this Act, including the provisions*
20 *for renewal and adjustment of payment rates, or he may*
21 *choose not to participate in such program.*

22 *SEC. 7. The Secretary may terminate any agreement*
23 *by mutual agreement with the owner or operator if the Secre-*
24 *tary determines that such termination would be in the public*
25 *interest, and may agree to such modification of agreements as*

1 he may determine to be desirable to carry out the purposes of
2 the program or facilitate its administration.

3 SEC. 8. In carrying out the program, the Secretary may
4 utilize the services of local, county, and State committees
5 established under section 8 of the Soil Conservation and Do-
6 mestic Allotment Act, as amended. The Secretary is author-
7 ized to utilize the facilities and services of the Commodity
8 Credit Corporation in discharging his functions and responsi-
9 bilities under this program.

10 SEC. 9. The Secretary may, without regard to the civil
11 service laws, appoint an Advisory Board to advise and con-
12 sult on matters relating to his functions under this Act as he
13 deems appropriate. The Board shall consist of persons chosen
14 from members of organizations such as wildlife organizations,
15 land-grant colleges, farm organizations, State game and fish
16 departments, soil and water conservation district associations,
17 water management organizations, and representatives of the
18 general public. Members of such an Advisory Board who are
19 not regular full-time employees of the United States shall be
20 entitled to reimbursement on an actual expense basis for at-
21 tendance at Advisory Board meetings.

22 SEC. 10. The Secretary shall consult with the Secretary
23 of the Interior and take appropriate measures to insure that
24 the program carried out pursuant to this Act is in harmony
25 with wetlands programs administered by the Secretary of the

1 *Interior. He shall also, insofar as practicable, consult with*
2 *and utilize the technical and related services of appropriate*
3 *local, State, Federal, and private conservation agencies to*
4 *assure coordination of the program with programs of such*
5 *agencies and a solid technical foundation for the program.*

6 *SEC. 11. There are hereby authorized to be appropriated*
7 *without fiscal year limitation, such sums as may be neces-*
8 *sary to carry out the program authorized by this Act. In*
9 *carrying out the program, the Secretary shall not enter into*
10 *agreements with owners and operators which would require*
11 *payments to owners or operators in any calendar year under*
12 *such agreements in excess of \$10,000,000.*

13 *SEC. 12. The Secretary shall prescribe such regulations*
14 *as he determines necessary and desirable to carry out the*
15 *provisions of this Act.*

91ST CONGRESS
2D Session

H. R. 15770

[Report No. 91-1307]

A BILL

To provide for conserving surface waters; to preserve and improve habitat for migratory waterfowl and other wildlife resources; to reduce runoff, soil and wind erosion, and contribute to flood control; and for other purposes.

By Mr. ANDREWS of North Dakota, Mr. KLEPPER,
Mr. ZWACH, and Mr. KARTH

FEBRUARY 9, 1970

Referred to the Committee on Merchant Marine and
Fisheries

JULY 16, 1970

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

DIGEST of Congressional Proceedings

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
(FOR INFORMATION ONLY;
NOT TO BE QUOTED OR CITED)

For actions of October 5, 1970
91st-2nd; No. 174

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HIGHLIGHTS: House passed continuing resolution and proposed Water Bank Act.

HOUSE

1. BILLS PASSED.

H.J. Res. 1388, making further continuing appropriations until the sine die adjournment of the 2nd session of the 91st Congress for FY 71.

The resolution provides for increase from \$300,000,000 to \$600,000,000 for the advance appropriation for the Food Stamp Program and the period of availability is extended to January 31, 1971. pp. H9519-21

H.R. 15770, the proposed Water Bank Act. pp. H9556-61

S. 3619, with amendment, the proposed Disaster Relief Act of 1970. pp. H9521-9

H.R. 10482, authorizing the establishment of the Voyageurs National Park. pp. H9529-37

WASHINGTON, D.C.
OFFICIAL BUSINESS

UNITED STATES DEPARTMENT OF AGRICULTURE

20250

POSTAGE AND FEES PAID
U.S. DEPARTMENT OF AGRICULTURE

BILLS PASSED. (cont.)

H.R. 19342, to establish and develop the Chesapeake and Ohio National Historical Park. pp. H9577-83

H.R. 12061, regarding the identification of oleomargarine served in public places. pp. H9538-9

S. 368, authorizing the disposition of geothermal steam and associated geothermal resources, with amendment. pp. H9583-90

2. BILLS REPORTED.

Committee on Public Works reported H.R. 19504, authorizing appropriations for the construction of certain highways (H. Rept. 91-1554). p. H9611

Conferees filed a report on H.R. 15424, to amend the Merchant Marine Act of 1936 (H. Rept. 91-1555). p. H9611

3. FOOD STAMPS. Rep. Ashbrook criticized the increase in advance appropriations for the Food Stamp program, asserting the extra funds may well be headed not for the poor and needy but for "strikers and others who may be out of work by their own voluntary action". pp. H9596-8

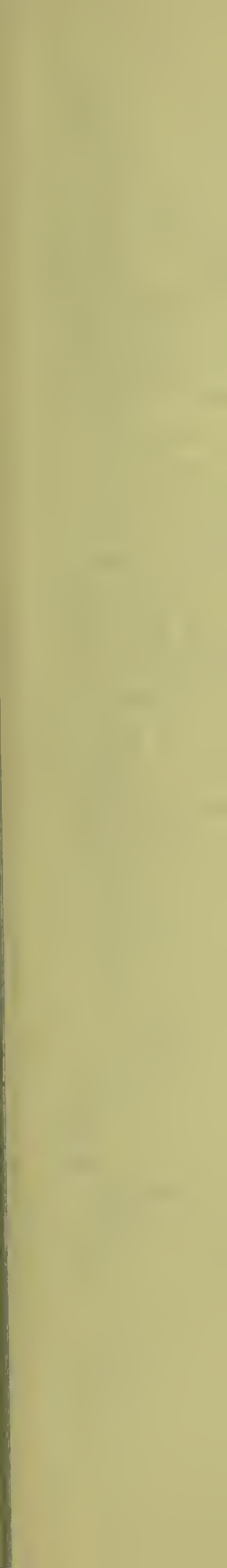
SENATE

4. LANDS. Committee on Interior and Insular Affairs reported without amendment H.R. 13125, to provide for the exchange of certain lands in North Dakota, South Dakota, Montana, and Washington (S. Rept. 91-1265). p. D1097

5. FEDERAL ASSISTANCE PROGRAMS. Committee on Government Operations reported with amendment S. 60, to create a catalog of Federal assistance programs (S. Rept. 91-1271). p. D1097

EXTENSION OF REMARKS

6. DAIRY IMPORTS. Rep. Zwach called attention to differences in preparation and storage standards of the U.S. and other countries for dairy and meat products. pp. E8833-4



entation of reports based on such data. He represents the circuit as its liaison in the courts, just as the executive officer would be able to do. He represents the circuit as its liaison to the courts of various States in which the circuit is located—the marshal's office, the State and local bar associations, civic groups, and so forth. He arranges and attends meetings of the judges of the circuit and of the circuit council, including the preparation of the agenda, and serves as secretary at such meetings. He prepares an annual report to the circuit and to the Administrative Office of the United States Courts for the preceding year, including recommendations for more expeditious disposition of business. All these functions could be performed by the circuit court executive.

Mr. GROSS. Could I just ask the gentleman one simple question?

Mr. CELLER. Certainly. I will be glad to answer.

Mr. GROSS. What do the clerks of the courts do now?

Mr. CELLER. The clerk keeps the records of cases and supervises the care calendars and keeps a record of the assignment of cases. However, that type of work does not necessarily involve the management expertise that this executive would have to have.

Mr. GROSS. If it requires expertise in administration, in accounting, and bookkeeping, why does this individual have to be a lawyer? Why do you not go out and get executive officers who have expertise in administration and bookkeeping?

Mr. CELLER. There is no requirement that he be a lawyer. He has to have experience and training in administrative management and it would, of course, be an advantage if he is a lawyer.

Mr. GROSS. The gentleman from New York just got through saying that the executive officers would be lawyers.

Mr. CELLER. If I did say that, that was in error. I am sorry.

Mr. GROSS. How much more are you going to beef up these courts? Do you suppose an executive officer would take care of the judge who did not show up for 2 years to sit on a bench in the District of Columbia? Do you not think the chief judge here could have put pressure on that judge to discharge the responsibilities for which that individual was paid for 2 years and still did nothing? I am tired of beefing up the personnel of the courts only to find that it seems to make very little difference.

It seems that every year the number of Federal judges has to be increased and now we have got to have executive officers to hold the hands of the judges.

Mr. CELLER. All I can say to the gentleman from Iowa is that there is nothing sacred in the status quo. There are changes everywhere.

Mr. GROSS. I should say there are.

Mr. CELLER. You never bathe in the same river twice.

Mr. GROSS. Yes, but all this does is to add additional debt on the citizens of America.

Mr. CELLER. You must expect these changes and you must meet these

changes and provide for progressive reform. These are reforms which should help in the administration of justice in our courts.

Mr. POFF. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Ohio (Mr. McCULLOCH).

(Mr. McCULLOCH asked and was given permission to revise and extend his remarks.)

Mr. McCULLOCH. Mr. Speaker, I am pleased to join the chairman in support of H.R. 17901 which would permit, but not require, the judicial council of each of the 11 Federal judicial circuits to appoint a circuit court executive. This legislation was unanimously reported from the full committee and has the support of the administration, the Judicial Conference of the United States, and the American Bar Association.

The purpose of this legislation is to infuse modern managerial knowledge and experience into our Federal circuit courts. In August of last year, Chief Justice Burger, in an address delivered before the Institute of Judicial Administration in Dallas, said:

The courts of this country need management which busy and overworked judges, with vastly increased caseloads, cannot give. We need a corps of trained administrators or managers, just as hospitals found they needed them many years ago, to manage and direct the machinery so that judges can concentrate on their primary professional duty of judging.

Management tasks and responsibilities oftentimes lie buried and sometimes unrecognized in the total job of a judge. Judges are chosen because of their judicial ability and not for their skills in management.

In May of this year, the House passed the omnibus district judgeship bill which is now Public Law 91-272. This law establishes 61 new Federal district judgeships which I believe are needed if our Federal courts are to cope with their ever-increasing workload.

However, increased "judgepower" alone will not solve the problems of congestion and delay. Since 1959, we have increased the number of Federal district judgeships by 40 percent and this has resulted in only a 9-percent increase in the number of civil and criminal dispositions.

I wish I could say that I had the solution to all of this—but I cannot. I do believe that the establishment of court executives is a step in the right direction. I do know that the process of litigation has frustrated many people and I submit that the patience of the American people is wearing thin.

Court management and the administration of justice are inseparable. We have all heard or said the truism that "justice delayed is justice denied," but delay and congestion in our Federal courts continues to grow. These conditions help to create disrespect for our laws and our legal institutions which in turn can increase the chances for disruption in our society. We must never forget that our courts are a crucial part of the peacekeeping operations of the Government. An efficient and effective court ad-

ministration, with a feeling for all people who use or are connected with our courts, as well as a feeling for professional and constitutional values, will do much to better justice in America.

Chief Justice Warren E. Burger in his state of the judiciary address in August of this year stated:

Efficiency must never be the controlling test of criminal justice but the work of the courts can be efficient without jeopardizing basic safeguards. Indeed, the delays in trials are often one of the gravest threats to individual rights.

I urge prompt enactment of this legislation.

Mr. POFF. Mr. Speaker, I yield myself such time as I may consume.

(Mr. POFF asked and was given permission to revise and extend his remarks.)

Mr. POFF. Mr. Speaker, as one of the original sponsors of H.R. 17901, I regard this legislation as an important court reform bill.

The bill which would permit, but not require, each judicial circuit to select a court executive from among persons certified by a board of certification. The board of certification would consist of five members, three of whom would be elected by the Judicial Conference of the United States. The additional two members would be the Director of the Administrative Office of the U.S. Courts and the Director of the Federal Judicial Center. The board would have two primary functions, one, to draft standards for certification, and two, to review all applicants who apply for certification and maintain a roster of all persons certified. These standards would take into account experience in administrative and executive positions, familiarity with court procedures, and special training.

I am sure that many Members are concerned as to the availability of qualified personnel to occupy the position of court executive. The American Bar Association has announced plans to establish the first comprehensive training program for the development of a corps of skilled executives for our Federal and State courts. This program contemplates a 2-year pilot course to train 60 court executives in three classes of 20 trainees each. The first class began its training this past June and will be graduated by mid-December 1970. This program will assure the availability of personnel to fill these positions.

The concept of the court executive is supported by the administration, the Judicial Conference of the United States, and the American Bar Association.

Mr. Speaker, I am of the opinion that much of the public dissatisfaction with the operation of our courts is caused by undue delays in the administration of its business. Deputy Attorney General Kleindienst, at hearings on the omnibus judgeship bill ventilated the problem with these words:

Parties to litigation have become increasingly frustrated over their inability to secure prompt judicial determination of their rights and liabilities. On the criminal side . . . innocent persons must wait many painful months to clear their names; the general

public is subjected to the risk of repeated criminal offenses committed by guilty persons free while awaiting adjudication of their cases.

I might add that there are other undesirable effects of delay and backlog: Witnesses give up in frustration after numerous canceled court appearances; jurors despair waiting endless hours only to go home without entering the jury box; and plaintiffs settle for less than they are legally entitled to receive because they cannot wait for the court to act.

Chief Justice Warren E. Burger in his "state of the Judiciary" address delivered before the annual meeting of the American Bar Association in St. Louis this past August stated that we are still trying to operate the courts with fundamentally the same basic methods, procedures and machinery that was not good enough in 1906. He stated:

In the supermarket age we are like a merchant trying to operate a cracker barrel corner grocery store with the method and equipment of 1900.

The Chief Justice went on to point out that we have at least 58 astronauts capable of flying to the moon, but not nearly that many court administrators to assist judges in handling their many administrative tasks. This is so despite the fact that the 11 circuits and 93 Federal district courts processed a total of 115,000 cases in fiscal year 1969, and expended \$106,000,000 on a system which employs 7,259 people.

Mr. Speaker, I believe that this legislation would modernize circuit court administrations and contribute greatly to the expedition of the Federal appellate courts' business.

The SPEAKER. The question is on the motion of the gentleman from New York that the House suspend the rules and pass the bill, H.R. 17901, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE TO EXTEND

Mr. CELLER. Mr. Speaker, I ask unanimous consent that all Members desiring to do so may have 5 legislative days in which to extend their remarks on the bill just passed, H.R. 17901.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

WATER BANK ACT

Mr. DINGELL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 15770) to provide for conserving surface waters; to preserve and improve habitat for migratory waterfowl and other wildlife resources; to reduce runoff, soil and wind erosion, and contribute to flood control; and for other purposes, as amended.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Water Bank Act".

SEC. 2. The Congress finds that it is in the public interest to preserve, restore, and improve the wetlands of the Nation, and thereby to conserve surface waters, to preserve and improve habitat for migratory waterfowl and other wildlife resources, to reduce runoff, soil and wind erosion, and contribute to flood control, to contribute to improved water quality and reduce stream sedimentation, to contribute to improved subsurface moisture, to reduce acres of new land coming into production and to retire lands now in agricultural production, to enhance the natural beauty of the landscape, and to promote comprehensive and total water management planning. The Secretary of Agriculture (hereinafter in this Act referred to as the "Secretary") is authorized and directed to formulate and carry out a continuous program to prevent the serious loss of wetlands, and to preserve, restore, and improve such lands, which program shall begin on July 1, 1971.

SEC. 3. In effectuating the water bank program authorized by this Act, the Secretary shall have authority to enter into agreements with landowners and operators in important migratory waterfowl nesting and breeding areas for the conservation of water on specified farm, ranch, or other wetlands identified in a conservation plan developed in cooperation with the Soil and Water Conservation District in which the lands are located, under such rules and regulations as the Secretary may prescribe. These agreements shall be entered into for a period of ten years, with provision for renewal for additional periods of ten years each. The Secretary shall reexamine the payment rates at the beginning of any such ten-year renewal period in the light of the then current land and crop values and make needed adjustments in rates for any such renewal period. As used in this Act, the term "wetlands" means the inland fresh areas (types 1 through 5) described in Circular 39, Wetlands of the United States, published by the United States Department of the Interior (including artificially developed inland fresh areas which meet the description of inland fresh areas, types 1 through 5, contained in such Circular 39). No agreement shall be entered into under this Act concerning land with respect to which the ownership or control has changed in the two-year period preceding the first year of the agreement period unless the new ownership was acquired by will or succession as a result of the death of the previous owner, or unless the new ownership was acquired prior to July 1, 1971, under other circumstances which the Secretary determines, and specifies by regulation, will give adequate assurance that such land was not acquired for the purpose of placing it in the program, except that this sentence shall not be construed to prohibit the continuation of an agreement by a new owner or operator after an agreement has once been entered into under this Act. A person who has operated the land to be covered by an agreement under this Act for as long as two years preceding the date of the agreement and who controls the land for the agreement period shall not be required to own the land as a condition of eligibility for entering into the agreement. Nothing in this section shall prevent an owner or operator from placing land in the program if the land was acquired by the owner or operator to replace eligible land from which he was displaced because of its acquisition by any Federal, State, or other agency having the right of eminent domain. The Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers, including provision for sharing, on a fair and equitable basis, in payments or compensation under this program. No provision of this Act shall prevent an owner or operator who is participating in the program under this Act from participating in other Federal or State programs designed to conserve or protect wetlands.

SEC. 4. In the agreement between the Secretary and an owner or operator, the owner or operator shall agree—

(1) to place in the program for the period of the agreement eligible wetland areas he designates, which areas may include wetlands covered by a Federal or State government easement which permits agricultural use, together with such adjacent areas as determined desirable by the Secretary;

(2) not to drain, burn, fill, or otherwise destroy the wetland character of such areas, nor to use such areas for agricultural purposes, as determined by the Secretary;

(3) to effectuate the wetland conservation and development plan for his land in accordance with the terms of the agreement, unless any requirement thereof is waived or modified by the Secretary pursuant to section 7 of this Act;

(4) to forfeit all rights to further payments or grants under the agreement and refund to the United States all payments or grants received thereunder upon his violation of the agreement at any stage during the time he has control of the land subject to the agreement if the Secretary determines that such violation is of such a nature as to warrant termination of the agreement, or to make refunds or accept such payment adjustments as the Secretary may deem appropriate if he determines that the violation by the owner or operator does not warrant termination of the agreement;

(5) upon transfer of his right and interest in the lands subject to the agreement during the agreement period, to forfeit all rights to further payments or grants under the agreement and refund to the United States all payments or grants received thereunder during the year of the transfer unless the transferee of any such land agrees with the Secretary to assume all obligations of the agreement;

(6) not to adopt any practice specified by the Secretary in the agreement as a practice which would tend to defeat the purposes of the agreement; and

(7) to such additional provisions as the Secretary determines are desirable and includes in the agreement to effectuate the purposes of the program or to facilitate its administration.

SEC. 5. In return for the agreement of the owner or operator, the Secretary shall (1) make an annual payment to the owner or operator for the period of the agreement at such rate or rates as the Secretary determines to be fair and reasonable in consideration of the obligations undertaken by the owner or operator; and (2) bear such part of the average cost of establishing and maintaining conservation and development practices on the wetlands and adjacent areas for the purposes of this Act as the Secretary determines to be appropriate. In making his determination, the Secretary shall consider, among other things, the rate of compensation necessary to encourage owners or operators of wetlands to participate in the water bank program. The rate or rates of annual payments as determined hereunder shall be increased, by an amount determined by the Secretary to be appropriate, in relation to the benefit to the general public of the use of the wetland areas, together with designated adjacent areas, if the owner or operator agrees to permit, without other compensation, access to such acreage by the general public, during the agreement period, for hunting, trapping, fishing, and hiking, subject to applicable State and Federal regulations.

SEC. 6. Any agreement may be renewed or extended at the end of the agreement period for an additional period of ten years by mutual agreement of the Secretary and the owner or operator, subject to any rate redetermination by the Secretary. If during the agreement period the owner or operator sells or otherwise divests himself of the ownership or right of occupancy of such

land, the new owner or operator may continue such agreement under the same terms or conditions, or enter into a new agreement in accordance with the provisions of this Act, including the provisions for renewal and adjustment of payment rates, or he may choose not to participate in such program.

SEC. 7. The Secretary may terminate any agreement by mutual agreement with the owner or operator if the Secretary determines that such termination would be in the public interest, and may agree to such modification of agreements as he may determine to be desirable to carry out the purposes of the program or facilitate its administration.

SEC. 8. In carrying out the program, the Secretary may utilize the services of local, county, and State committees established under section 8 of the Soil Conservation and Domestic Allotment Act, as amended. The Secretary is authorized to utilize the facilities and services of the Commodity Credit Corporation in discharging his functions and responsibilities under this program.

SEC. 9. The Secretary may, without regard to the civil service laws, appoint an Advisory Board to advise and consult on matters relating to his functions under this Act as he deems appropriate. The Board shall consist of persons chosen from members of organizations such as wildlife organizations, land-grant colleges, farm organizations, State game and fish departments, soil and water conservation district associations, water management organizations, and representatives of the general public. Members of such an Advisory Board who are not regular full-time employees of the United States shall be entitled to reimbursement on an actual expense basis for attendance at Advisory Board meetings.

SEC. 10. The Secretary shall consult with the Secretary of the Interior and take appropriate measures to insure that the program carried out pursuant to this Act is in harmony with wetlands programs administered by the Secretary of the Interior. He shall also, insofar as practicable, consult with and utilize the technical and related services of appropriate local, State, Federal, and private conservation agencies to assure coordination of the program with programs of such agencies and a solid technical foundation for the program.

SEC. 11. There are hereby authorized to be appropriated without fiscal year limitation, such sums as may be necessary to carry out the program authorized by this Act. In carrying out the program, the Secretary shall not enter into agreements with owners and operators which would require payments to owners or operators in any calendar year under such agreements in excess of \$10,000,000.

SEC. 12. The Secretary shall prescribe such regulations as he determines necessary and desirable to carry out the provisions of this Act.

The SPEAKER. Is a second demanded?

Mr. PELLY. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

(Mr. DINGELL asked and was given permission to revise and extend his remarks.)

Mr. DINGELL. Mr. Speaker, the purpose of H.R. 15770 is to preserve and improve habitat for migratory waterfowl and other wildlife resources. The bill also has as its purpose to reduce runoff, soil and wind erosion; to improve water quality and subsurface moisture; to reduce stream sedimentation; to promote comprehensive water management plan-

ning; and to encourage farmers to refrain from converting wetlands into croplands.

Mr. Speaker, the need for this legislation arises from the fact that valuable waterfowl lands are rapidly disappearing because of the accelerated pace in which marshes and swamps are being dredged, drained, filled, paved, and even polluted in order to meet the demands of civilization. H.R. 15770 would provide the owners and operators of these lands with an economic alternative to such uses.

Mr. Speaker, as many of my colleagues will recall, in 1961, the Congress enacted what is known as the Accelerated Wetlands Acquisition Act. That act had as its objective the acquisition of 2.5 million acres of waterfowl habitat. The act authorized to be appropriated \$105 million over a 7-year period for the purpose of acquiring these vitally needed wetlands.

Because of considerable delay in getting the program started, local opposition in some key States, rising costs of land, and insufficient funding, the program never has proceeded at the rate anticipated. In 1967, the Congress extended the act for an additional 8 years and at the same level of funding. Unfortunately, only about half of the funds authorized to be appropriated have actually been appropriated. As I am sure my colleagues are aware, all of the funds appropriated pursuant to this act are to eventually be repaid out of duck stamp sales, which are now averaging close to \$6 million per year.

Mr. Speaker, although the wetlands acquisition program has met with considerable success, the drainage of wetlands is still continuing at a rapid pace. In North Dakota alone, approximately 45,000 acres of wetlands are being lost to drainage programs each year. Unfortunately, the program with its permanent preservation of wetlands does not appeal to all farmers. However, the water bank program that would be authorized by H.R. 15770 would appeal to a large number of farmers since farmers in general seek to make their lands produce the maximum return on their investment and the water bank program will offer an economic alternative to drainage. The Secretary of Agriculture would be directed to carry out the program in harmony with other land and water conservation activities now carried out by the Department of Agriculture such as the soil conservation program, the drainage referral program, and the cropland adjustment program, as well as the wetlands acquisition program now carried out by the Department of the Interior.

Mr. Speaker, briefly explained, section 1 of the bill would cite the legislation as the Water Bank Act.

Section 2 of the bill would find that it is in the public interest to preserve, restore, and improve the wetlands of our Nation and beginning July 1, 1971, the Secretary of Agriculture would be directed to formulate and carry out a continuous program to accomplish such purposes.

Section 3 of the bill would authorize the Secretary of Agriculture to enter

into 10-year agreements—with provision for renewal for additional periods of 10 years each—with landowners and operators in important migratory nesting and breeding areas for the conservation of water and specified farm ranch, or other wetlands identified in a conservation plan developed in cooperation with the Soil and Water Conservation District in which the lands are located.

Landowners would be required to have owned the lands for a period of at least 2 years prior to entering into such an agreement. Wetlands eligible to be placed in a program would be only those lands directed as inland fresh areas, which would include seasonally flooded basins or flats, fresh meadows, both deep and shallow marshes, and open fresh waters. These areas occur principally in North and South Dakota and Minnesota and are often referred to as the pothole region.

Section 4 of the bill would specify certain conditions to which the owner or operator would have to agree in any agreement entered into with the Secretary of Agriculture. Among other things, such owners and operators would have to agree to place in the program certain designated wetlands and, if deemed desirable by the Secretary, certain adjacent areas; he would have to agree not to drain, burn, fill, destroy, or otherwise use such lands for agricultural purposes; he would have to agree to forfeit all rights to future payments and grants upon a violation of the agreement; also, should he transfer the land under contract during the agreement period, he would have to agree to forfeit all rights to future payments and grants and to repay all payments and grants received during the year of transfer, unless the transferee agrees to honor the agreement.

In return for such an agreement, the Secretary of Agriculture would be required to make reasonable annual payments to the owners or operators of such lands and in addition bear an appropriate part of the average cost of establishing and maintaining conservation and development practices on the lands and adjacent areas.

Section 6 of the bill would authorize the Secretary of Agriculture and the owner or operator at the end of the agreement period to extend the agreement for additional periods of 10 years.

Section 7 of the bill would authorize the Secretary of Agriculture to terminate or modify any agreement by mutual agreement with the owner or operator.

Section 8 of the bill would authorize the Secretary of Agriculture to utilize the services of local, county, and State committees established under the Soil Conservation and Domestic Allotment Act and to utilize the facilities and services of the Commodity Credit Corporation in carrying out his functions and responsibilities under the program.

Section 9 of the bill would authorize the Secretary of Agriculture to appoint an advisory board composed of various related interests to advise him on matters relating to his functions under the act.

Section 10 of the bill would require the Secretary of Agriculture to consult with

the Secretary of the Interior and to take appropriate measures to insure that the program authorized by this act would be carried out in harmony with the wetlands programs administered by the Secretary of the Interior. To assure further coordination of the water bank program, the Secretary of Agriculture would be required to consult with and utilize the technical and related services of appropriate local, State, Federal, and private conservation agencies.

Section 11 of the bill would authorize to be appropriated such sums as may be necessary to carry out the program authorized by the legislation. However, the Secretary of Agriculture would not be authorized to enter into agreements that would require payments to owners or operators in any calendar year in excess of \$10 million.

Section 12 of the bill would authorize the Secretary of Agriculture to prescribe such regulations as he may determine necessary to carry out the provisions of the act.

Mr. Speaker, H.R. 15770, as amended, was unanimously reported by the Merchant Marine and Fisheries Committee and has wide support from national conservation organizations throughout the Nation. In fact, just last week, 13 of these national organizations joined in a letter that was sent to all Members of the House strongly urging passage of this legislation. I would like to insert in the RECORD immediately following my remarks a copy of this letter together with the names of the sponsoring organizations. Also, I would like to call to the attention of my colleagues that, in addition to these organizations, this legislation is strongly supported by the American Farm Bureau Federation, the National Farmers' Union, and the National Farmers Association.

Mr. Speaker, in all fairness to my colleagues, I feel that I should point out that both the Department of the Interior and the Department of Agriculture opposed enactment of the legislation. The Department of the Interior in its report stated that it supported the objectives of the bill but opposed the establishment of a new wildlife habitat program that would be administered separately by the Department of Agriculture. The Department of Agriculture in its report stated that the preserving of habitat for migratory waterfowl is the responsibility of the Department of the Interior, which currently administers a program for this purpose, and therefore any new program should be established within the Department of the Interior.

Mr. Speaker, despite these adverse reports, the Committee on Merchant Marine and Fisheries was impressed by the wide range of witnesses testifying at the hearings in support of the legislation. The committee determined that the preponderance of evidence produced at the hearings was overwhelmingly favorable and that the water bank program authorized by the legislation—contrary to what the Departments said—would complement existing waterfowl programs now carried out in both the Department of the Interior and the Department of Agriculture.

Mr. Speaker, in closing I want to point out that the bill has wide bipartisan support and I think that this alone indicates the importance of this issue to our national interest. I would like to compliment the authors of the bill, Congressman ANDREWS of North Dakota, Congressman KLEPPE of North Dakota, Congressman ZWACH of Minnesota, and a valuable and distinguished member of my Subcommittee on Fisheries and Wildlife Conservation and a dedicated conservationist and one who worked so diligently and closely with me in bringing this legislation to the floor, my good friend and colleague, Congressman KARTH of Minnesota.

Mr. Speaker, I urge prompt passage of H.R. 15770.

The letter referred to follows:

SEPTEMBER 28, 1970.

DEAR CONGRESSMAN: The undersigned national conservation organizations have learned that the chairman of the House Committee on Merchant Marine and Fisheries has requested the Speaker to list the widely supported Water Bank bill, H.R. 15770, on the suspension calendar for Monday, October 5.

Much has been heard in recent years about the drainage and destruction of the natural wetlands needed by migratory waterfowl and other wildlife. Records of House and Senate committees bear out that a vast acreage of wetlands has been destroyed, much of it stimulated by federal technical and financial assistance.

The Water Bank offers the owners of wetlands an acceptable alternative to drainage. Operating through existing USDA agencies, it would authorize payments for wetlands preservation, thereby making it feasible for farmers, ranchers, and other landowners to resist the economic pressures that encourage wetlands destruction.

As shown by the House committee's hearing record, the Water Bank is endorsed by many of the country's leading conservation and farm organizations and agencies as a constructive approach to the proper management of land, wildlife, and water resources.

American Forestry Association, William E. Towell, Executive Vice President.

Friends of the Earth, George Alderson, Legislative Director.

Izaak Walton League of America, Joseph W. Penfold, Conservation Director.

National Assn. of Conservation Districts, Gordon K. Zimmerman, Executive Secretary.

National Audubon Society, Charles H. Callison, Executive Vice President.

National Rifle Association of America, Frank C. Daniel, Secretary.

National Wildlife Federation, Thomas L. Kimball, Executive Director.

The Nature Conservancy, Thomas W. Richards, President.

Sierra Club, W. Lloyd Tupling, Washington Conservation Representative.

Trout Unlimited, Ray A. Kotrla, Washington Representative.

The Wilderness Society, Stewart M. Brandborg, Executive Director.

Wildlife Management Institute, Daniel A. Poole, President.

The Wildlife Society, Fred G. Evenden, Executive Director.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. DINGELL. I am happy to yield to my friend, the gentleman from Iowa.

Mr. GROSS. What is the gentleman's answer to the statement by the Department of Agriculture on page 15 of the report in which it is stated:

We are not aware of any need for a new and separate program to promote conservation of waterfowl habitat.

Mr. DINGELL. The gentleman is aware, I am sure, of the Bureau of the Budget's long record of opposition to any new program and, particularly the programs which involve spending.

I would point out that their comments are at very wide variance with every national farm organization and the Governors of States and every national organization of game and fish conservation commissions.

I would point out that the views of the Bureau of the Budget are as usual at wide variance with the majority of the Members and, indeed, at wide variance with the views of all the Members who have considered this legislation and reported this legislation out unanimously.

I would point out to my good friend that the committee has gone into this matter with exquisite care. We have had the assistance of the technicians of the Department of Agriculture and the Department of the Interior in coming up with what is a technically correct and adequate piece of legislation. More importantly, I can tell you that the recommendations of the Department of Agriculture and the Department of the Interior that were sent to the Bureau of the Budget were that the bill be passed at an early time and it is one which has their enthusiastic support. I can tell the gentleman that their position changed when it got into the hands of the Bureau of the Budget.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. DINGELL. I am glad to yield to the gentleman.

Mr. GROSS. I think I referred to the Department of Agriculture. I should have attributed that statement, which is to be found on page 15 of the report, to the Department of the Interior rather than to the Department of Agriculture. I think, if I recall correctly, the Department of Agriculture is likewise opposed to the bill.

Mr. DINGELL. I wish to answer my distinguished friend, the gentleman from Iowa by saying that the answer I just gave the gentleman would apply to the statements which you see here in the record by both the Department of the Interior and the Department of Agriculture.

Mr. ANDREWS of North Dakota. Mr. Speaker, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman.

Mr. ANDREWS of North Dakota. I would like to state, in this colloquy with the gentleman from Iowa, that the gentleman from Michigan has raised an extremely good point.

It is my strong suspicion, Mr. Speaker, that the objections made by the Department of the Interior are more to the point that they do not want anyone else in this most important field than it is to the fact that the water bank program is not needed.

At the present time our farmers are caught in a price squeeze and they are draining every pothole they can to try to raise more at a lower cost.

The water bank program will encourage farmers through the local ASC, in whom he has confidence, to enter into the program, which he is not entering into now, because the Fish and Wildlife Service, which is presently administering conservation programs, has less acceptance.

Mr. DINGELL. The gentleman is correct.

I would point out again that there are thousands of acres of these wetlands each year being drained in the United States. Very shortly we are going to run out of this kind of wildlife habitat for migratory waterfowl.

This strikes me as being a very unwise use of our important and much needed precious natural resources.

Mr. GROSS. Do I understand that the enactment of this bill would authorize \$10 million a year?

Mr. DINGELL. The gentleman is correct; \$10 million a year is the figure we agreed upon.

Mr. GROSS. Is there no limitation as to the number of years?

Mr. DINGELL. This program is for 10 years.

Mr. GROSS. It is for 10 years?

Mr. DINGELL. Any agreement entered into can be extended by mutual agreement between the Department of Agriculture and the owners or operators for additional periods of 10 years each.

Mr. PELLY. Mr. Speaker, I yield myself such time as I may consume.

(Mr. PELLY asked and was given permission to revise and extend his remarks.)

Mr. PELLY. Mr. Speaker, I rise to support the passage of H.R. 15770, legislation designed to conserve surface waters and to preserve and improve habitat for migratory waterfowl. This bill commonly referred to as the "Water Bank Act" was sponsored by our distinguished colleagues from North Dakota, Mr. ANDREWS and Mr. KLEPPE, and has received the unanimous and bipartisan support of your Committee on Merchant Marine and Fisheries.

The pothole regions of the Dakotas and Minnesota are vital to the survival of migratory waterfowl in the United States. The continued draining of these areas and their conversion for agricultural and commercial uses threatens to seriously diminish breeding grounds to the point where many species will soon be unable to find sufficient wetlands to sustain their numbers.

The 19th century witnessed the extinction of many species of American wild fowl due to unregulated hunting, often for commercial purposes. Almost too late, we imposed seasonal restrictions and bag limits to insure adequate propagation of our migratory waterfowl.

We are now confronted with a similar, but much more difficult problem of insuring that the unique wetlands environment of our waterfowl is maintained in balance. Land in its natural state is fast becoming a precious commodity in the United States.

As the committee report clearly indicates, our existing acquisition and ease-

ment programs have been underfunded and are lagging behind their anticipated goals.

Mr. Speaker, the Water Bank Act offers an intelligent and compatible alternative to the existing wetlands programs of the Interior Department. While the official reports of the Interior and Agriculture Departments express opposition to this legislation, the representatives of these departments who testified before your committee expressed their concern over the rapid destruction of waterfowl habitat in most eloquent terms.

I am certain that these departments will welcome this legislation and will work closely together to implement it in a forceful manner. I do not believe, therefore, that the official objections raised to this legislation should stand as a bar to its enactment.

The distinguished chairman of the Fisheries and Wildlife Subcommittee (Mr. DINGELL) has clearly explained the various sections of this bill, and I see no need to review them further.

Mr. Speaker, this is an important and much-needed bill. I urge my colleagues to support its enactment.

Mr. Speaker, I yield 5 minutes to the gentleman from North Dakota (Mr. ANDREWS).

Mr. ANDREWS of North Dakota. Mr. Speaker, I rise in support of this legislation and to commend the committee for the judicious way in which it expedited the handling of this most necessary legislation.

Mr. Speaker, the drainage and destruction of natural wetlands needed by migratory waterfowl and other wildlife has been so extensive that by 1950, approximately half of the wetlands of the prairie pothole regions of the United States had been drained. It has continued in North Dakota at the rate of approximately 45,000 acres of wetlands lost each year.

Our farmers, caught in a merciless cost-price squeeze, have had to take these steps to utilize every acre of the land they own—and on which they pay taxes.

Recognizing this problem, the Congress enacted the Wetlands Loan Act—Public Law 87-383—in 1961, which had as an objective the acquisition of 2.5 million acres of waterfowl habitat over a 7-year period. This program did not and has not proceeded at the pace anticipated and the act has subsequently been extended. It was slow in getting started, there was understandable opposition to it at the State and local level because of its impact on county tax revenues, it has never been fully funded and, meanwhile, the amount of wetlands available has been reduced drastically every year.

The failure of this act, the continuing difficulty experienced by our Nation's farmers and the deep concern of the wildlife conservation interests provided the impetus for the water bank proposal before the House today. This proposal offers the owners of wetlands an acceptable alternative to drainage. Operating through existing USDA agencies, it authorizes payments for wetlands preservation, thereby making it feasible for

farmers, ranchers and other landowners to resist the economic pressures that encourage wetlands destruction.

As the principal sponsor of the water bank bill, I would like to pay tribute to the North Dakota Wildlife Advisory Committee for their important and essential contribution in putting this proposal together. Chaired by Arthur Schulz, dean and director of the Extension Service at North Dakota State University, the panel included representatives from every conservation, wildlife and agriculture group in North Dakota.

The broad support for this proposal is reflected by the diverse interests that testified in its behalf before the Committee on Merchant Marine and Fisheries, including the country's leading conservation and farm organizations.

After reviewing the purposes of H.R. 15770, as well as the steps to be taken to achieve these purposes, I urge my colleagues on both sides of the aisles to join in passing the water bank bill.

Mr. PELLY. Mr. Speaker, I yield 5 minutes to the gentleman from North Dakota (Mr. KLEPPE).

(Mr. KLEPPE asked and was given permission to revise and extend his remarks.)

Mr. KLEPPE. Mr. Speaker, I merely wish to add to the remarks of my colleague from North Dakota (Mr. ANDREWS) and specifically point out the efforts of the subcommittee and the committee that handled this legislation under the leadership of the gentleman from Maryland (Mr. GARMATZ), the gentleman from Michigan (Mr. DINGELL), and the gentleman from Washington (Mr. PELLY). The cooperation and the work that they put behind this piece of legislation was very exceptional, and I want to commend them.

Mr. Speaker, as a cosponsor of H.R. 15770, the Water Bank Act, I would like to point out to my colleagues that no piece of legislation with which I have ever been associated has received such broad and enthusiastic support. Never have we seen such cooperation from the country's leading conservation and farm organizations and agencies as we have experienced in developing the Water Bank Act.

To the best of my knowledge, no organization opposes it.

The Water Bank Act is a very creative piece of legislation. It represents a constructive approach to the proper management of land, wildlife, and water resources.

I believe it is important to note that wetlands loss is a national rather than a State or regional problem. Today, at least 40 percent of the Nation's inland wetlands have disappeared because of drainage, highway construction, flood control, reclamation projects, and urban and industrial sprawl. It is estimated that up to 90 percent of the Atlantic coastal marshes have been affected by man to a point where their natural and wildlife values have been drastically reduced.

Looking west, we find that severe demands in California for land and water have reduced the acreage of historical waterfowl habitat by 84 percent.

In the north-central region of the United States, the ice-age glaciers retreated northward to leave millions of depressions on the northern and central plains. The depressions are now lakes, marshes and potholes and make up the greatest waterfowl breeding area in North America, if not the world.

Drainage of wetlands was so extensive that by 1950, approximately half of the wetlands and the prairie pothole regions of the United States had been drained and this drainage has since continued. In North Dakota alone, nearly 45,000 acres of wetlands were drained during the years 1965 to 1967. With inflation, with land prices going up and with farm income on the decline, the farmer must, of necessity, attempt to produce more to increase his income. This usually dictates that he make fuller use of his land by draining his wetlands. This does not mean that farmers, ranchers, and other landowners are not concerned with conserving wetlands. They, perhaps more than any others, understand the tragedy of wetland loss since they see it firsthand. In fact, Mr. Speaker, I am sure you will find that more often than not farmers, ranchers, and other landowners have carried the financial burden of conserving wetlands until economic survival absolutely dictated the drainage of land.

The Water Bank Act was proposed to provide the farmer with an economic alternative to drainage. Under the bill, landowners could enter into contracts with the Federal Government to limit the use of wetlands and to leave them in their present condition.

When looking at this legislation, I think it is important to note once again the unanimity of opinion of the organizations involved. In North Dakota alone, it has the active support of the National Farmers Organization, North Dakota Farm Bureau, North Dakota Farmers Union, Greater North Dakota Association, North Dakota Stockmen's Association, North Dakota Wildlife Federation, North Dakota Water Users, the Garrison Conservancy District, and the North Dakota Association of Soil Conservation Districts.

Whenever support of this nature takes place, I am convinced of the merit of the legislation, and I urge my colleagues' favorable support of this constructive proposal that has already received broad bipartisan support.

In conclusion, Mr. Speaker, I would like to express my sincere appreciation to the able chairman of the Subcommittee on Fisheries and Wildlife Conservation of the Merchant Marine and Fisheries Committee. The gentleman from Michigan (Mr. DINGELL) has skillfully guided the progress of the Water Bank Act, and without his assistance, and that of the chairman of the committee, the gentleman from Maryland (Mr. GARMATZ), we would not have the opportunity today to vote on a measure that has such far-reaching benefits in the preservation of our natural and irreplaceable wetlands and improving the quality of our environment.

Mr. PELLY. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota (Mr. ZWACH).

Mr. ZWACH. Mr. Speaker, Minnesota is known as the land of 10,000 lakes. In my youth, it was also the land of 100,000 ponds, potholes, and swamps. Waterfowl and furbearers abounded in these natural reservoirs.

When there was a heavy rain, or abnormal spring runoff, these ponds were natural reservoirs, holding the water on the land where it fell and allowing it to slowly work its way to the streambeds or to recharge the underground water supply.

Over the years, as the necessity for more tillable lands increased, when more land was taken for highway and building purposes, these swamps and potholes were drained, filled, or deprived of their feeder streams, they dried up.

In many areas, without the surface waters to recharge the underground aquifers, wells had to be sunk deeper or dried up entirely. Surface water was unavailable for irrigation or to water livestock.

Unless action is taken soon, the loss of our surface reservoirs will result in irreversible damage to our land.

This water bank legislation would authorize the Secretary of Agriculture to enter into long-term agreements with landowners to preserve their wetland acres.

One of the wisest moves we could make would be to compensate the landowners for preserving their wetlands.

There is no end to the dividends that would accrue from the passage of this bill. We would help to recharge our underground water supply; we would preserve our surface reservoirs, thereby providing insurance against recurring floods; we would maintain habitat for wildlife; and we would perpetuate the ecological balance built into our land by an all-wise Creator.

I thank you for your consideration of this legislation.

(Mr. ZWACH asked and was given permission to revise and extend his remarks.)

(Mr. ANDERSON of Illinois, at the request of Mr. PELLY, was granted permission to extend his remarks at this point in the RECORD.)

Mr. ANDERSON of Illinois. Mr. Speaker, I rise in support of H.R. 15770 which is known as "the Water Bank Act." The purpose of this legislation quite simply is to preserve, restore, and improve the wetlands of this Nation to protect migratory waterfowl and their natural habitats, and prevent runoff, soil and wind erosion, and in general, to enhance the natural beauty of the landscape and promote comprehensive water management planning.

Mr. Speaker, I think it is important to point out that this legislation received the unanimous approval of the Merchant Marine and Fisheries Committee and is endorsed by all the Nation's leading conservation and agricultural organizations. The need for this legislation becomes apparent when you begin to realize how much of our wetlands are being drained each year for conversion to agriculturally productive land. As the committee report so vividly puts it:

Each year untold acres of valuable waterfowl habitat are lost forever. These lands

are rapidly disappearing because of the accelerated pace in which marshes and swamps are being ditched, dredged, drained, filled, paved, and polluted in order to meet the demands of modern civilization. These encroachments are caused by the constant need for more agricultural lands, more industrial sites, more urban housing developments, more roads and more airports.

Mr. Speaker, while no one wants to halt or reverse the march of civilization, it is becoming increasingly apparent that we must take adequate safeguards to prevent the march of civilization from becoming a Shermanesque "March to the Sea." While no one would deny that we must expand food production and provide additional facilities to house and transport our growing population, it is becoming increasingly apparent that our future growth must be more planned, orderly, and balanced than it has been to date, and that we must give more attention to ecological and environmental considerations.

We have in this country a shrinking reservoir of natural beauty and resources and we must take special care not to consume and destroy these in a reckless rush to achieve what is loosely termed "progress." In the legislation before us today we recognize that our civilization will ultimately be judged in terms of quality as well as quantity, and that, in fact, its very survival may well depend on the emphasis we do give now to these qualitative considerations.

The Water Bank Act is a reasonable and responsible piece of legislation because it recognizes both the need to preserve and protect the Nation's wetlands and the need to provide the farmer with an economic alternative to drainage. Under the provisions of this bill, the Secretary of Agriculture would be authorized to enter into agreements with the owners and operators of wetlands in the migratory waterfowl nesting and breeding areas of the United States. Under these contracts, the owners or operators would agree not to drain, burn, fill, or otherwise destroy the wetland character of the lands under contract, and in return, the Secretary would be required to make annual payments to the owners or operators. The bill authorizes the Secretary of Agriculture to make payments up to a total of \$10 million per year.

Mr. Speaker, I urge passage of this bill. I think it is a good bill, a reasonable bill, and a responsible bill, and, as I mentioned earlier, it has widespread support here in the Congress as well as among leading conservation and agricultural organizations.

Mr. PELLY. Mr. Speaker, in conclusion I would like very briefly to comment on the point raised by our colleagues from Iowa (Mr. GROSS). It has been my observation through the years that periodically we have very devastating floods, including floods of the Mississippi in Iowa, and the cost of those is incalculable. The more we drain off our potholes and our wetlands, the more reason we have for these devastating floods. I know that when certain rivers, the Red River and others, flood at the same time, these great floods occur, and it is my thoughts that many times over, by preserving our wetlands, we could avoid

costly floods and actually the cost of this program would be minimal.

Mr. DINGELL. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota (Mr. KARTH).

Mr. KARTH. Mr. Speaker, I rise in support of the bill H.R. 15770, of which I am a cosponsor.

I would like to take this opportunity to commend the Subcommittee on Fisheries and Wildlife Conservation, which, guided by the dynamic leadership of Congressman JOHN DINGELL, worked tirelessly, and with great competence and speed—to report this legislation to the floor of the House, and so it could be voted upon during this session of the Congress. I feel strongly that rapid enactment of this legislation is most important.

Mr. Speaker, untold acres of valuable migratory waterfowl habitat are rapidly disappearing from the face of our earth because of the accelerated pace in which they are being diverted to other uses to meet the demands of modern civilization. These encroachments are caused by the constant need for more agricultural lands, more industrial sites, more urban housing developments, more roads, and more airports. Once you encroach on these areas not only do you destroy the natural habitat, but you destroy the wildlife as well.

Mr. Speaker, as my distinguished subcommittee chairman just recently pointed out, the Accelerated Wetlands Acquisition Act has met with great success. However, I would like to point out that it would have met with more success if the Congress had fully funded the program as it was directed when the act was enacted in 1961. Only about one-half of the \$105 million authorized to be appropriated has actually been appropriated. Consequently, we have been unable to achieve our original goal of acquiring 2.5 million acres of wetlands, which clearly points up the need for this legislation.

Mr. Speaker, H.R. 15770 is designed to provide the owners and operators of these valuable wetlands with an economic alternative to diverting these lands to other uses. It would be called a water bank program and it would be carried out in harmony with land and water conservation programs now carried out by the Secretary of Agriculture and the Secretary of the Interior.

The objectives of the water bank bill would be similar to and would complement the programs just mentioned; wildlife conservation, soil and water conservation, improved water quality, pollution abatement, and the reduction of the number of acres of converted land all would be encouraged by H.R. 15770.

Mr. Speaker, unfortunately the present waterfowl production area program with its permanent preservation of wetlands does not appeal to all farmers. A substantial number of these landowners can be expected to find a water bank program most attractive. Their participation in this program will afford temporary wetland protection and new wildlife benefits on many farms which would never have been reached under other programs.

Mr. Speaker, while these lands are being protected under the 10-year agreements provided under this legislation, I am most hopeful that the Congress will fully fund the Wetlands Acquisition Act which was extended for an additional 8 years in 1967 so that the Secretary of the Interior can proceed to achieve its goal of acquiring permanent ownership of these lands. It is only in this way that we can ever expect to provide the necessary protection that our valuable wildlife resources so badly need and so justly deserve.

Mr. Speaker, my State of Minnesota is one of the three States primarily affected by this legislation. The other States are North and South Dakota and they are commonly referred to as the "pothole region." As indicated at the subcommittee hearings on the legislation, drainage of wetlands has been so extensive that by the year 1950, approximately half of the wetlands of the prairie pothole regions of the United States had been drained. This drainage has since continued at an alarming rate. In my State alone, thousands of acres of wetlands are being lost to drainage programs each year.

Mr. Speaker, existing Federal and State programs to preserve wetlands are meeting with some success, but they are not completely satisfying the desired objectives. H.R. 15770 will fill in this gap and provide the necessary incentive for owners of wetlands to preserve these invaluable resources in their present status.

I join my colleagues in urging rapid passage of H.R. 15770.

(Mr. KARTH asked and was given permission to revise and extend his remarks.)

Mr. DINGELL. Mr. Speaker, I yield 3 minutes to the distinguished chairman of the Committee on Merchant Marine and Fisheries, whose assistance on this matter has been invaluable.

Mr. GARMATZ. Mr. Speaker, next to pollution, the greatest threat to our environment is the persistent demands of civilization for more and more land. Increased urbanization and industrial development results in a relentless encroachment upon our remaining land. Our wetlands, which comprise some of our most valuable and irreplaceable natural resources, are rapidly disappearing.

In addition to being things of great natural beauty, these precious wetlands—the marshes, swamps, and estuarine areas—provide the natural habitat for much of our fish and wildlife, including valuable waterfowl. These valuable nesting and breeding areas are being systematically and ruthlessly destroyed. They are being drained, burned, and filled in; they are paved and often polluted—all in the name of progress.

No one can dispute the need for the industrial sites, the housing developments, the roads and airports that our ever-growing civilization demands. But it is equally important to try to maintain a harmonious balance between the demands for economic expansion and the need to conserve our precious natural resources.

Mr. Speaker, the water bank bill, H.R. 15770, is designed to help maintain that balance by persuading owners of these valuable wetlands to retain them in their natural conditions instead of converting them for industrial, agricultural or other uses. This would be accomplished by 10-year agreements with the owners and operators of these lands, who would be financially compensated for preserving the wetlands.

Since Congressman JOHN DINGELL, my friend and colleague, and chairman of the Subcommittee on Fisheries and Wildlife Conservation, has already explained this legislation in detail, it will not be necessary for me to elaborate at this time.

I do, however, want to take this opportunity to compliment all the members of the Fisheries and Wildlife Subcommittee for reporting this worthwhile legislation. I especially want to commend the efforts of a distinguished member of that subcommittee, Congressman JOSEPH KARTH, of Minnesota. He is an author of the bill, and he worked diligently with the subcommittee to make sure that Congress acts swiftly to protect a vital part of America's precious heritage. Congressman KARTH is rapidly emerging as one of the country's leading conservationists, and I congratulate him for the valuable contribution he is making—both to the committee and to the Nation.

Mr. Speaker, H.R. 15770 is an excellent and important piece of legislation, and I urge its rapid passage.

(Mr. GARMATZ asked and was given permission to revise and extend his remarks.)

The SPEAKER pro tempore (Mr. BURKE of Massachusetts). The question is on the motion of the gentleman from Michigan that the House suspend the rules and pass the bill H.R. 15770, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

POINT OF ORDER

Mr. ALEXANDER. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER pro tempore. The Chair will count.

Mr. ALEXANDER. Mr. Speaker, I withdraw the point of order at this time.

FEDERAL SHARE INSURANCE FOR CREDIT UNIONS

Mr. PATMAN. Mr. Speaker, I move to suspend the rules and pass the bill (S. 3822) to provide insurance for member accounts in State and federally chartered credit unions and for other purposes.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal Credit Union Act, as amended (12 U.S.C. 1751-1775), is further amended—

(1) by inserting immediately above the heading of section 2 the following:

"TITLE I—FEDERAL CREDIT UNIONS";

(2) by redesignating sections 2 through 28 as sections 101 through 127, respectively; and

(3) by inserting the following new title after section 127, as redesignated by paragraph (2) of this section:

"TITLE II—SHARE INSURANCE

**"INSURANCE OF MEMBER ACCOUNTS AND
ELIGIBILITY PROVISIONS**

"SEC. 201. (a) The Administrator, as hereinafter provided, shall insure the member accounts of all Federal credit unions and he may insure the member accounts of (1) credit unions organized and operated according to the laws of any State, the District of Columbia, the several territories and possessions of the United States, the Panama Canal Zone, or the Commonwealth of Puerto Rico, and (2) credit unions organized and operating under the jurisdiction of the Department of Defense if such credit unions are operating in compliance with the requirements of title I of this Act and regulations issued thereunder.

"(b) Application for insurance of member accounts shall be made immediately by each Federal credit union and may be made at any time by a State credit union or a credit union operating under the jurisdiction of the Department of Defense. Applications for such insurance shall be in such form as the Administrator shall provide and shall contain an agreement by the applicant—

"(1) to pay the reasonable cost of such examinations as the Administrator may deem necessary in connection with determining the eligibility of the applicant for insurance: *Provided*, That examinations required under title I of this Act shall be so conducted that the information derived therefrom may be utilized for share insurance purposes, and examinations conducted by State regulatory agencies shall be utilized by the Administrator for such purposes to the maximum extent feasible;

"(2) to permit and pay the reasonable cost of such examinations as in the judgment of the Administrator may from time to time be necessary for the protection of the fund and of other insured credit unions;

"(3) to permit the Administrator to have access to any information or report with respect to any examination made by or for any public regulatory authority, including any commission, board, or authority having supervision of a State-chartered credit union, and furnish such additional information with respect thereto as the Administrator may require;

"(4) to provide protection and indemnity against burglary, defalcation, and other similar insurable losses, of the type, in the form, and in an amount at least equal to that required by the laws under which the credit union is organized and operates;

"(5) to maintain such regular reserves as may be required by the laws of the State, district, territory, or other jurisdiction pursuant to which it is organized and operated, in the case of a State-chartered credit union, or as may be required by section 116 of this Act, in the case of a Federal credit union;

"(6) to maintain such special reserves as the Administrator, by regulation or in special cases, may require for protecting the interest of members or to assure that all insured credit unions maintain regular reserves which are not less than those required under title I of this Act;

"(7) not to issue or have outstanding any account or security the form of which, by regulation or in special cases, has not been approved by the Administrator;

"(8) to pay the premium charges for insurance imposed by this title; and

"(9) to comply with the requirements of this title and of regulations prescribed by the Administrator pursuant thereto.

"(c) (1) Before approving the application of any credit union for insurance of its member accounts, the Administrator shall consider—

"(A) the history, financial condition, and management policies of the applicant;

"(B) the economic advisability of insuring the applicant without undue risk of the fund;

"(C) the general character and fitness of the applicant's management;

"(D) the convenience and needs of the members to be served by the applicant; and

"(E) whether the applicant is a cooperative association organized for the purpose of promoting thrift among its members and creating a source of credit for provident or productive purposes.

"(2) The Administrator shall reject the application of any credit union for insurance of its member accounts if he finds that its reserves are inadequate, that its financial condition and policies are unsafe or unsound, that its management is unfit, that insurance of its member accounts would otherwise involve undue risk to the fund, or that its powers and purposes are inconsistent with the promotion of thrift among its members and the creation of a source of credit for provident or productive purposes.

"(d) If the application of a Federal credit union for insurance is rejected, the Administrator shall suspend or revoke its charter unless, within one year after the rejection, the credit union meets the requirements for insurance and becomes an insured credit union.

"(e) Upon the approval of any application for insurance, the Administrator shall notify the applicant and shall issue to it a certificate evidencing the fact that it is, as of the date of issuance of the certificate, an insured credit union under the provisions of this title.

"REPORTS OF CONDITION; CERTIFIED STATEMENTS; PREMIUMS FOR INSURANCE

"SEC. 202. (a) (1) Each insured credit union shall make reports of condition to the Administrator upon dates which shall be selected by him. Such reports of condition shall be in such form and shall contain such information as the Administrator may require. The reporting dates selected for reports of condition shall be the same for all insured credit unions except that when any of said reporting dates is a nonbusiness day for any credit union the preceding business day shall be its reporting date. The total amount of the member accounts of each insured credit union as of each reporting date shall be reported in such reports of condition in accordance with regulations prescribed by the Administrator. Each report of condition shall contain a declaration by the president, by a vice president, by the treasurer, or by any other officer designated by the board of directors of the reporting credit union to make such declaration, that the report is true and correct to the best of his knowledge and belief. Unless such requirement is waived by the Administrator, the correctness of each report of condition shall be attested by the signatures of three of the officers of the reporting credit union with the declaration that the report has been examined by them and to the best of their knowledge and belief is true and correct.

"(2) The Administrator may call for such other reports as he may from time to time require.

"(3) The Administrator may require reports of condition to be published in such manner, not inconsistent with any applicable law, as he may direct. Every insured credit union which willfully fails to make or publish any such report within ten days shall be subject to a penalty of not more than \$100 for each day of such failure, recoverable by the Administrator for his use.

"(4) The Administrator may accept any

report of condition made to any commission, board, or authority having supervision of a State-chartered credit union and may furnish to any such commission, board, or authority reports of condition made to the Administrator.

"(5) Reports required under title I of this Act shall be so prepared that they can be used for share insurance purposes. To the maximum extent feasible, the Administrator shall use for insurance purposes reports submitted to State regulatory agencies by State-chartered credit unions.

"(b) On or before January 31 of each insurance year, each insured credit union which became insured prior to the beginning of that year shall file with the Administrator a certified statement showing the total amount of the member accounts in the credit union at the close of the preceding insurance year and the amount of the premium charge for insurance due to the fund for that year, as computed under subsection (c) of this section. The certified statements required to be filed with the Administrator pursuant to this subsection shall be in such form and shall set forth such supporting information as the Administrator shall require. Each such statement shall be certified by the president of the credit union, or by any officer of the credit union designated by its board of directors, that to the best of his knowledge and belief the statement is true, correct, and complete and in accordance with this title and regulations issued thereunder.

"(c) (1) Except as provided in paragraphs (2) and (3) of this subsection, each insured credit union, on or before January 31 of each insurance year, shall pay to the fund a premium charge for insurance equal to one-twelfth of 1 per centum of the total amount of the member accounts in such credit union at the close of the preceding insurance year.

"(2) Each credit union which was in existence prior to the enactment of this title and which becomes insured under this title after January 1 of any insurance year shall pay to the fund, for the insurance year in which it becomes insured, a premium charge for insurance equal to one-twelfth of 1 per centum of the total amount of the member accounts in such credit union at the close of the month before the month in which it becomes insured, reduced by an amount proportionate to the number of calendar months elapsed since the beginning of such insurance year and prior to the month in which it becomes insured. Such payment shall be made within thirty days after the date on which the credit union receives the certificate of insurance issued to it under section 201 of this title.

"(3) Each credit union which is chartered after enactment of this title and which becomes insured under this title in the insurance year in which it is chartered shall pay to the fund, for the insurance year in which it is chartered, a premium charge for insurance computed in the following manner:

"(A) To the total amount of the member accounts in the credit union at the close of the month in which it becomes insured, add the total amount of such member accounts in the credit union at the close of each succeeding month of the insurance year and divide the total by the number of such months (including the month in which it becomes insured).

"(B) From the figure obtained under subparagraph (A), subtract \$10,000.

"(C) Multiply the figure obtained under subparagraph (B) by one-twelfth of 1 per centum.

"(D) Reduce the figure obtained under subparagraph (C) by an amount proportionate to the number of calendar months elapsed since the beginning of such insurance year and prior to the month in which the credit union becomes insured. The fig-

91ST CONGRESS
2D SESSION

H. R. 15770

IN THE SENATE OF THE UNITED STATES

OCTOBER 7, 1970

Read twice and referred to the Committee on Commerce

AN ACT

To provide for conserving surface waters; to preserve and improve habitat for migratory waterfowl and other wildlife resources; to reduce runoff, soil and wind erosion, and contribute to flood control; and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Water Bank Act".

4 SEC. 2. The Congress finds that it is in the public inter-
5 est to preserve, restore, and improve the wetlands of the
6 Nation, and thereby to conserve surface waters, to preserve
7 and improve habitat for migratory waterfowl and other wild-
8 life resources, to reduce runoff, soil and wind erosion, and
9 contribute to flood control, to contribute to improved water

1 quality and reduce stream sedimentation, to contribute to im-
2 proved subsurface moisture, to reduce acres of new land com-
3 ing into production and to retire lands now in agricultural
4 production, to enhance the natural beauty of the landscape,
5 and to promote comprehensive and total water management
6 planning. The Secretary of Agriculture (hereinafter in this
7 Act referred to as the "Secretary") is authorized and directed
8 to formulate and carry out a continuous program to prevent
9 the serious loss of wetlands, and to preserve, restore, and
10 improve such lands, which program shall begin on July 1,
11 1971.

12 SEC. 3. In effectuating the water bank program author-
13 ized by this Act, the Secretary shall have authority to enter
14 into agreements with landowners and operators in important
15 migratory waterfowl nesting and breeding areas for the con-
16 servation of water on specified farm, ranch, or other wetlands
17 identified in a conservation plan developed in cooperation
18 with the Soil and Water Conservation District in which the
19 lands are located, under such rules and regulations as the
20 Secretary may prescribe. These agreements shall be entered
21 into for a period of ten years, with provision for renewal
22 for additional periods of ten years each. The Secretary
23 shall reexamine the payment rates at the beginning of any
24 such ten-year renewal period in the light of the then current
25 land and crop values and make needed adjustments in rates

1 for any such renewal period. As used in this Act, the term
2 "wetlands" means the inland fresh areas (types 1 through 5)
3 described in Circular 39, Wetlands of the United States,
4 published by the United States Department of the Interior
5 (including artificially developed inland fresh areas which
6 meet the description of inland fresh areas, types 1 through
7 5, contained in such Circular 39). No agreement shall be
8 entered into under this Act concerning land with respect to
9 which the ownership or control has changed in the two-year
10 period preceding the first year of the agreement period un-
11 less the new ownership was acquired by will or succession as
12 a result of the death of the previous owner, or unless the new
13 ownership was acquired prior to July 1, 1971, under other
14 circumstances which the Secretary determines, and specifies
15 by regulation, will give adequate assurance that such land
16 was not acquired for the purpose of placing it in the pro-
17 gram, except that this sentence shall not be construed to pro-
18 hibit the continuation of an agreement by a new owner or
19 operator after an agreement has once been entered into under
20 this Act. A person who has operated the land to be covered
21 by an agreement under this Act for as long as two years
22 preceding the date of the agreement and who controls the
23 land for the agreement period shall not be required to own
24 the land as a condition of eligibility for entering into the
25 agreement. Nothing in this section shall prevent an owner or

1 operator from placing land in the program if the land was ac-
2 quired by the owner or operator to replace eligible land from
3 which he was displaced because of its acquisition by any Fed-
4 eral, State, or other agency having the right of eminent do-
5 main. The Secretary shall provide adequate safeguards to
6 protect the interests of tenants and sharecroppers, including
7 provision for sharing, on a fair and equitable basis, in pay-
8 ments or compensation under this program. No provision of
9 this Act shall prevent an owner or operator who is participat-
10 ing in the program under this Act from participating in other
11 Federal or State programs designed to conserve or protect
12 wetlands.

13 SEC. 4. In the agreement between the Secretary and an
14 owner or operator, the owner or operator shall agree—

15 (1) to place in the program for the period of the
16 agreement eligible wetland areas he designates, which
17 areas may include wetlands covered by a Federal or
18 State government easement which permits agricultural
19 use, together with such adjacent areas as determined de-
20 sirable by the Secretary;

21 (2) not to drain, burn, fill, or otherwise destroy the
22 wetland character of such areas, nor to use such areas for
23 agricultural purposes, as determined by the Secretary;

24 (3) to effectuate the wetland conservation and de-
25 velopment plan for his land in accordance with the terms

1 of the agreement, unless any requirement thereof is
2 waived or modified by the Secretary pursuant to section
3 7 of this Act;

4 (4) to forfeit all rights to further payments or grants
5 under the agreement and refund to the United States all
6 payments or grants received thereunder upon his viola-
7 tion of the agreement at any stage during the time he
8 has control of the land subject to the agreement if the
9 Secretary determines that such violation is of such a
10 nature as to warrant termination of the agreement, or to
11 make refunds or accept such payment adjustments as the
12 Secretary may deem appropriate if he determines that
13 the violation by the owner or operator does not warrant
14 termination of the agreement;

15 (5) upon transfer of his right and interest in the
16 lands subject to the agreement during the agreement
17 period, to forfeit all rights to further payments or grants
18 under the agreement and refund to the United States all
19 payments or grants received thereunder during the year
20 of the transfer unless the transferee of any such land
21 agrees with the Secretary to assume all obligations of
22 the agreement;

23 (6) not to adopt any practice specified by the
24 Secretary in the agreement as a practice which would
25 tend to defeat the purposes of the agreement; and

1 (7) to such additional provisions as the Secretary
2 determines are desirable and includes in the agreement
3 to effectuate the purposes of the program or to facilitate
4 its administration.

5 SEC. 5. In return for the agreement of the owner or
6 operator, the Secretary shall (1) make an annual payment
7 to the owner or operator for the period of the agreement at
8 such rate or rates as the Secretary determines to be fair and
9 reasonable in consideration of the obligations undertaken by
10 the owner or operator; and (2) bear such part of the aver-
11 age cost of establishing and maintaining conservation and
12 development practices on the wetlands and adjacent areas
13 for the purposes of this Act as the Secretary determines to
14 be appropriate. In making his determination, the Secretary
15 shall consider, among other things, the rate of compensation
16 necessary to encourage owners or operators of wetlands to
17 participate in the water bank program. The rate or rates
18 of annual payments as determined hereunder shall be in-
19 creased, by an amount determined by the Secretary to be
20 appropriate, in relation to the benefit to the general public
21 of the use of the wetland areas, together with designated ad-
22 jacent areas, if the owner or operator agrees to permit, with-
23 out other compensation, access to such acreage by the general
24 public, during the agreement period, for hunting, trapping,

1 fishing, and hiking, subject to applicable State and Federal
2 regulations.

3 SEC. 6. Any agreement may be renewed or extended
4 at the end of the agreement period for an additional period
5 of ten years by mutual agreement of the Secretary and the
6 owner or operator, subject to any rate redetermination by
7 the Secretary. If during the agreement period the owner
8 or operator sells or otherwise divests himself of the owner-
9 ship or right of occupancy of such land, the new owner
10 or operator may continue such agreement under the same
11 terms or conditions, or enter into a new agreement in accord-
12 ance with the provisions of this Act, including the provisions
13 for renewal and adjustment of payment rates, or he may
14 choose not to participate in such program.

15 SEC. 7. The Secretary may terminate any agreement
16 by mutual agreement with the owner or operator if the
17 Secretary determines that such termination would be in the
18 public interest, and may agree to such modification of agree-
19 ments as he may determine to be desirable to carry out the
20 purposes of the program or facilitate its administration.

21 SEC. 8. In carrying out the program, the Secretary may
22 utilize the services of local, county, and State committees
23 established under section 8 of the Soil Conservation and
24 Domestic Allotment Act, as amended. The Secretary is
25 authorized to utilize the facilities and services of the Com-

1 modify Credit Corporation in discharging his functions and
2 responsibilities under this program.

3 SEC. 9. The Secretary may, without regard to the civil
4 service laws, appoint an Advisory Board to advise and con-
5 sult on matters relating to his functions under this Act as he
6 deems appropriate. The Board shall consist of persons chosen
7 from members of organizations such as wildlife organiza-
8 tions, land-grant colleges, farm organizations, State game
9 and fish departments, soil and water conservation district
10 associations, water management organizations, and repre-
11 sentatives of the general public. Members of such an Advisory
12 Board who are not regular full-time employees of the United
13 States shall be entitled to reimbursement on an actual ex-
14 pense basis for attendance at Advisory Board meetings.

15 SEC. 10. The Secretary shall consult with the Secretary
16 of the Interior and take appropriate measures to insure that
17 the program carried out pursuant to this Act is in harmony
18 with wetlands programs administered by the Secretary of the
19 Interior. He shall also, insofar as practicable, consult with
20 and utilize the technical and related services of appropriate
21 local, State, Federal, and private conservation agencies to
22 assure coordination of the program with programs of such
23 agencies and a solid technical foundation for the program.

24 SEC. 11. There are hereby authorized to be appropriated
25 without fiscal year limitation, such sums as may be neces-

1 sary to carry out the program authorized by this Act. In
2 carrying out the program, the Secretary shall not enter into
3 agreements with owners and operators which would require
4 payments to owners or operators in any calendar year under
5 such agreements in excess of \$10,000,000.

6 SEC. 12. The Secretary shall prescribe such regulations
7 as he determines necessary and desirable to carry out the
8 provisions of this Act.

Passed the House of Representatives October 5, 1970.

Attest:

W. PAT JENNINGS,

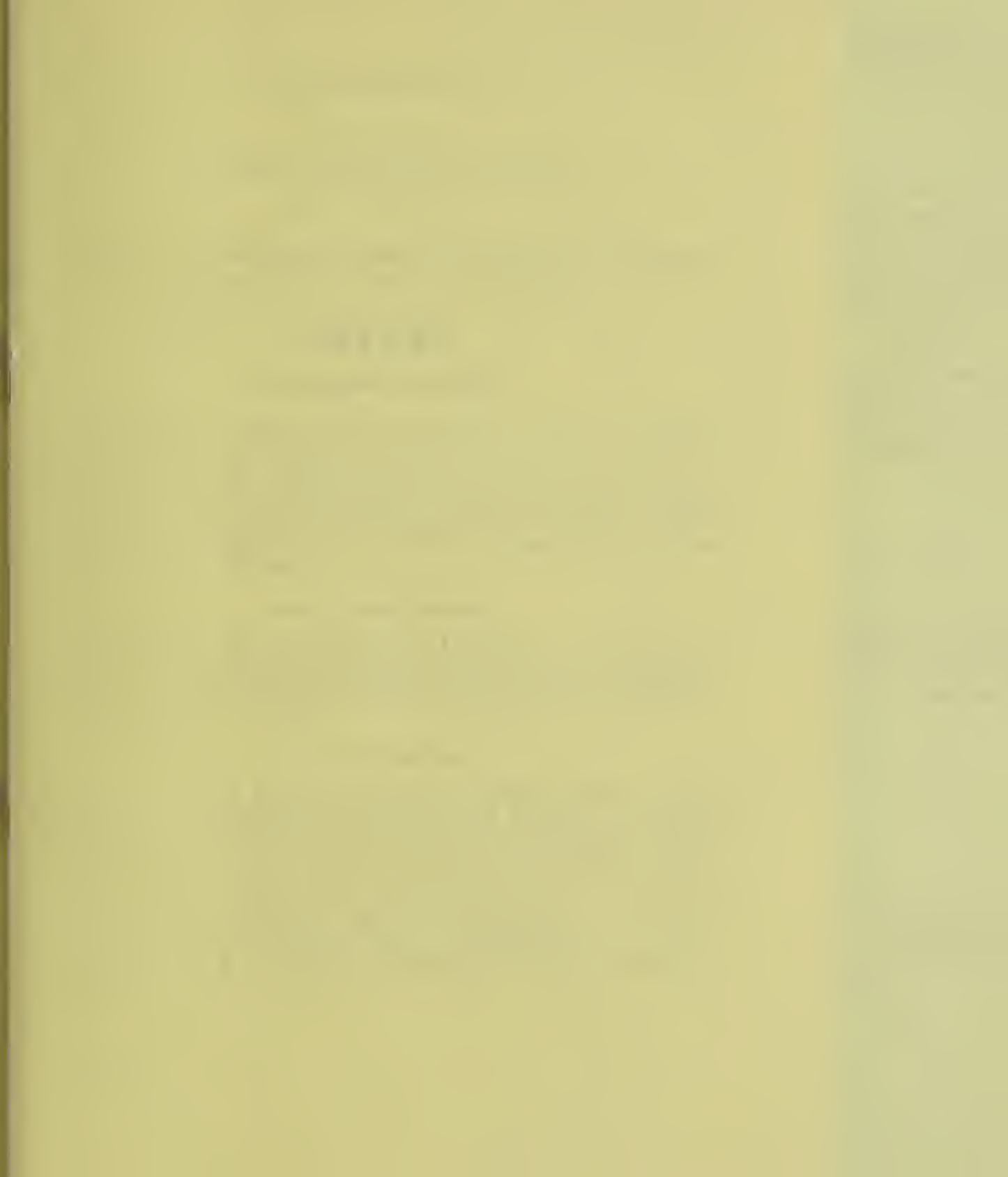
Clerk.

AN ACT

To provide for conserving surface waters; to preserve and improve habitat for migratory waterfowl and other wildlife resources; to reduce runoff, soil and wind erosion, and contribute to flood control; and for other purposes.

OCTOBER 7, 1970

Read twice and referred to the Committee on
Commerce



WATER BANK ACT

DECEMBER 3, 1970.—Ordered to be printed

Mr. YOUNG of North Dakota, from the Committee on Agriculture and Forestry, submitted the following

REPORT

[To accompany H.R. 15770]

The Committee on Agriculture and Forestry, to which was referred the bill (H.R. 15770) to provide for conserving surface waters; to preserve and improve habitat for migratory waterfowl and other wildlife resources; to reduce runoff, soil and wind erosion, and contribute to flood control; and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

SHORT EXPLANATION

This bill authorizes the Secretary of Agriculture to enter into 10 year renewable contracts with landowners and operators in important migratory waterfowl nesting and breeding areas for the conservation of water on specified wetlands.

NEED FOR THE BILL

Each year untold acres of valuable waterfowl habitat are lost forever. These lands are rapidly disappearing because of the accelerated pace in which marshes and swamps are being ditched, dredged, drained, filled, paved, and polluted in order to meet the demands of modern civilization. These encroachments are caused by the constant need for more agricultural lands, more industrial sites, more urban housing developments, more roads, and more airports.

H.R. 15770, would provide the owners and operators of these lands, which are so valuable to migratory waterfowl, an economic alternative to such uses.

BACKGROUND

In 1961, the Congress enacted the Wetlands Loan Act (Public Law 87-383). The act had, as its objective, the acquisition of 2.5 million acres of waterfowl habitat over a 7-year period. In 1967 the act was extended for an additional 8 years, until June 30, 1976.

Under the original goal, it was planned to purchase 750,000 acres of waterfowl refuges and 1,750,000 acres of waterfowl production areas of small wetlands. The latter figure includes fee purchase of 600,000 acres and purchase of perpetual easements on 1,150,000 acres. From 1961 to date, fee title has been acquired by the Secretary of the Interior on approximately 318,000 acres of refuges and 183,000 acres of waterfowl production areas. Easements have been purchased on approximately 700,000 additional acres of wetlands.

Unfortunately, the program has not proceeded at the pace anticipated. First there was considerable delay in getting the program started. Second, local opposition to the program developed in certain key States because of the impact of the program on county revenues. Third, some delay was, and still is caused by rising costs of land acquisitions. Fourth, the program never has been sufficiently funded. Fifth, the drainage of wetlands for agriculture, flood control, reclamation projects, and urban and industrial purposes has drastically reduced the number of acres that would be available for the program.

In fact, drainage of wetlands had been so extensive that by 1950, approximately half of the wetlands of the prairie pothole regions of the United States had been drained. This drainage has since continued and in North Dakota alone, approximately 45,000 acres of wetlands are being lost to drainage programs each year.

The objective of the waterfowl production area program carried out by the Secretary of the Interior is to preserve waterfowl breeding habitat by acquiring land, or interests in land, to prevent destruction of its wetlands character. The basic concept is to acquire the more permanent types of wetlands in fee as nucleus areas throughout the prairie pothole area. These are the deeper marshes which, barring drainage, can be expected to retain water throughout the farming season year after year. These permanent pothole areas generally include adjacent upland which increases the nesting potential of the pothole. Surrounding these nucleus areas are less permanent types of wetlands (including both shallow marshes and lands only intermittently under water) which afford additional breeding habitat during wet years, but may contain no water in drouth periods. These are the areas on which the Secretary acquires easements to prevent draining, filling, or burning of marsh vegetation. Both permanent potholes and temporary wetlands areas are necessary for maximum production.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Section 1 of the bill would cite the legislation as the "Water Bank Act."

Section 2. Purpose

Section 2 of the bill would find that it is in the public interest to preserve, restore, and improve the wetlands of the Nation. The Secretary of Agriculture would be authorized and directed to formulate

and carry out a continuous program—beginning July 1, 1971—to preserve, restore, and improve such lands. In carrying out the program, the Secretary would also strive to conserve surface waters; preserve and improve habitat for migratory waterfowl and other wildlife resources; reduce runoff, soil and wind erosion; contribute to improved water quality, flood control, and subsurface moisture; reduce stream sedimentation; reduce the number of acres of new land coming into production; and retire certain lands now in agricultural production.

Section 3. Authority for 10-year renewable agreements

Section 3 of the bill would authorize the Secretary of Agriculture to enter into 10-year agreements—with provision for renewal for additional periods of 10 years each—with landowners and operators in important migratory nesting and breeding areas for the conservation of water on specified farm, ranch, or other wetlands identified in a conservation plan developed in cooperation with the soil and water conservation district in which the lands are located. The Secretary would be required to examine the payment rates every 10 years and make appropriate adjustments in the light of the then current land and crop values.

Landowners would be required to have owned the lands for a period of at least 2 years prior to entering into such an agreement. An exception would be made if the lands were acquired by will or succession or if the lands were acquired prior to July 1, 1971, for purposes other than for placing such lands in the program. An operator of lands would be required to have controlled the lands for at least 2 years prior to an agreement and to retain control over the lands during the entire life of the agreement period.

Lands acquired by an owner or operator to replace an eligible farm, displaced because of an acquisition by eminent domain, would be eligible to be placed in the program.

Owners or operators would be authorized to participate in other Federal or State wetland programs. An example would be where the Secretary of the Interior has acquired a perpetual easement over lands for migratory waterfowl purposes, with the understanding that agricultural use of such lands would be permitted.

Wetlands eligible to be placed in a program would be only those inland fresh water areas (types 1 through 5) as described in Circular 39, Wetlands of the United States, published by the Department of the Interior. Artificially developed inland fresh water areas which meet the description of inland fresh water areas, types 1 through 5, would also be eligible.

Briefly explained, inland fresh areas, types 1–5, as defined in Circular 39 are as follows: (1) seasonally flooded basins or flats; (2) fresh meadows; (3) shallow fresh meadows; (4) deep fresh marshes; and (5) open fresh water. There are approximately 14 million acres of inland fresh areas, types 1–5, scattered through the United States which are rated as of primary importance for waterfowl purposes. These areas occur principally in North Dakota, South Dakota, and Minnesota and are often referred to as the pothole region.

Section 4. Obligations of owner or operator

Section 4 of the bill would specify certain conditions to which an owner or operator would have to agree in any agreement entered into with the Secretary of Agriculture. They are as follows:

(1) To place in the program certain designated wetlands together with adjacent areas as may be determined desirable by the Secretary. Such areas may include lands under easement to a State or Federal Government which permit agricultural use.

Adjacent areas placed in the program would provide food, vegetation, nesting cover, and protection, greatly increasing the full wildlife potential of the pothole and its environs.

(2) Not to drain, burn, fill, or otherwise destroy such lands nor to use such lands for agricultural purposes.

The draining, burning, and filling requirements would be identical to the rights now acquired by the Secretary of the Interior in the purchase of migratory waterfowl production area easements.

(3) To effectuate the wetland conservation plan in accordance with the agreement, unless certain requirements are waived by the Secretary

(4) To forfeit all rights to future payments and grants and to refund all payments and grants received upon his violation of the agreement. The Secretary would have the authority to waive termination of the agreement and to accept reduced refund payments if he determines the violation does not warrant termination of the agreement.

(5) Upon transfer of the lands during the agreement period to forfeit all rights to future payments or grants and to refund all payments or grants received during the year of transfer, unless the transferee agrees to honor the agreement.

(6) Not to adopt any practice specified by the Secretary which would tend to defeat the purposes of the agreement.

(7) To such additional provisions as the Secretary may deem desirable to effectuate the program and facilitate its administration.

Section 5. Payments by secretary

Section 5 of the bill—in return for the agreement of the owner or operator—would require the Secretary of Agriculture (1) to make reasonable annual payments to such owners or operators and in addition, (2) to bear an appropriate part of the average cost of establishing and maintaining conservation and development practices on the lands and adjacent areas as the Secretary may determine to be appropriate.

In making his determination, the Secretary would be required to consider, among other things, the rate of compensation necessary to encourage owners or operators to participate under the program; the benefits to be derived by the general public from the use of such areas; and any additional privileges that may be accorded the general public by the owners or operators, such as access to such acreage during the agreement period for hunting, trapping, fishing, and hiking.

Section 6. Renewals, changes in ownership or control

Section 6 of the bill would authorize the Secretary and the owner or operator at the end of an agreement period by mutual agreement to extend or renew the agreement for an additional period of 10 years.

The renewed or extended agreement would be made subject to any rate redetermination by the Secretary. Should the owner or operator sell or otherwise divest himself of the ownership or control over the lands during the agreement period, the new owner or operator would be allowed (1) to continue such agreement under the same terms and conditions; (2) to enter into a new agreement in accordance with the provisions of the act; or (3) to choose not to participate in the program.

Section 7. Termination or modification

Section 7 of the bill would authorize the Secretary of Agriculture to terminate or modify any agreement by mutual agreement with the owner or operator.

Section 8. Use of committees and Commodity Credit Corporation

Section 8 of the bill would authorize the Secretary of Agriculture to utilize the services of local, county, and State committees established under section 8 of the Soil Conservation and Domestic Allotment Act, as amended, and the Commodity Credit Corporation in carrying out his functions and responsibilities under the program.

Section 9. Advisory board

Section 9 of the bill would authorize the Secretary of Agriculture to functions under the act. Members of the board who are not regular full-time employees of the United States would be reimbursed on an actual expense basis for attendance at board meetings.

Section 10. Consultation

Section 10 of the bill would require the Secretary of Agriculture to consult with the Secretary of the Interior and take appropriate measures to insure that the program authorized by this act would be carried out in harmony with the wetlands programs administered by the Secretary of the Interior.

Section 10 would also require the Secretary of Agriculture to consult with and utilize the technical and related services of appropriate local, State, Federal, and private conservation agencies to assure coordination of the water bank program with the programs of such agencies.

Section 11. Appropriations. Scope of program

Section 11 of the bill would authorize to be appropriated, without fiscal year limitation, such sums as may be necessary to carry out the program authorized by the act. However, the Secretary of Agriculture would not be authorized to enter into agreements that would require payments to owners or operators in any calendar year in excess of \$10 million.

Section 12. Regulations

Section 12 of the bill would authorize the Secretary of Agriculture to prescribe such regulations as he may determine to be necessary to carry out the provisions of the act.

COST

The bill provides for payments not in excess of \$10 million in any year.

DEPARTMENTAL REPORTS

The following reports of the Department of Agriculture and the Department of the Interior express opposition to the initiation of a program in the Department of Agriculture additional to that now administered by the Department of the Interior. The latter Department's program under which fee title or easements are obtained is not succeeding in keeping a sufficient number of acres of waterfowl habitat and breeding areas from being lost. The program provided for by the bill for 10-year contracts is needed to supplement the existing program. The proposed program is similar and related to soil and water conservation, cropland adjustment, cropland conversion, agricultural conversion payment, and other programs administered by the Department of Agriculture, which has the State, county, and local committees, and other facilities for administering programs of this nature.

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., July 7, 1970.

HON. EDWARD A. GARMATZ,
*Chairman, Committee on Merchant Marine and Fisheries,
House of Representatives.*

DEAR MR. CHAIRMAN: This is in response to your request of February 10, 1970, for a report on H.R. 15770.

The purposes of this bill as stated in section 2 are to preserve, restore, and improve the wetlands of the Nation, and thereby to conserve surface waters, to preserve and improve habitat for migratory waterfowl and other wildlife resources, to reduce runoff, soil and wind erosion, and contribute to flood control, to contribute to improved water quality and reduce stream sedimentation, to contribute to improved subsurface moisture, to reduce acres of new land coming into production and to retire lands now in agricultural production, to enhance the natural beauty of the landscape, and to promote comprehensive and total water management planning.

The bill proposes that this act be known as the "Water Bank Act." The water bank program authorized by the act would be effectuated by the Secretary of Agriculture entering into agreements with landowners and operators for the conservation of specified wetlands. The agreements would be for 10 years with provision for renewal for additional 10-year periods. During the period of the agreement, the landowner agrees not to drain, burn, fill, or otherwise destroy the wetland areas, not to use such areas for agricultural purposes, as determined by the Secretary. In return for the agreement the Secretary of Agriculture would make payments to the owner or operator. The rate of annual payments would be determined by the Secretary and may be increased if the owner or operator agrees to permit, without other compensation, access by the general public for hunting, trapping, fishing, and hiking. The bill also authorizes the Secretary to share the cost of establishing and maintaining conservation and development practices on the wetlands and adjacent areas.

The bill requires the Secretary to carry out its provisions in harmony with wetlands programs administered by the Secretary of the Interior

and to utilize the technical and related services of appropriate State, Federal, and private conservation agencies to insure proper coordination.

The principal objective of this bill is to preserve habitat for migratory waterfowl. While determinations as to the need for such habitat are the responsibility of the Department of the Interior, which currently administers a program for this purpose, we are opposed to the establishment of a new program within the Department of Agriculture to meet this need. It seems to us that any additional waterfowl habitat needs, could best be met within the context of Interior's present program.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely,

J. PHIL CAMPBELL, *Under Secretary.*

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., July 7, 1970.

HON. EDWARD A. GARMATZ,
Chairman, Committee on Merchant Marine and Fisheries, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This responds to your request for the views of this Department on H.R. 15770, a bill to provide for conserving surface waters; to preserve and improve habitat for migratory waterfowl and other wildlife resources; to reduce runoff, soil and wind erosion, and contribute to flood control; and for other purposes. We understand that the bill supersedes H.R. 11707, H.R. 11717, and H.R. 12317, similar bills, upon which we commented in a report of September 12, 1969.

We support the objectives of the bill which relate to conservation and environmental protection. However, we are opposed to enactment of legislation to establish a new wildlife habitat program to be administered separately by the Department of Agriculture.

The bill, which is designed to conserve land and water resources, among other objectives, authorizes the Secretary of Agriculture to enter into agreements with producers in the migratory waterfowl nesting and breeding areas of the United States for the purpose of conserving water in farm, ranch, or other wetlands. The bill provides for a 10-year agreement period, with a provision for added 10-year extensions. In general, under these agreements, a producer agrees not to drain, burn, fill, or otherwise destroy the wetland character of a designated wetland area during the agreed period. During the period he is to carry out a conservation and development plan he agrees to. In return, the Secretary will make an annual payment to the owner or operator and bear an appropriate share of the conservation and development costs. Such payment will be increased appropriately where the general public is allowed to use the wetland area for hunting, trapping, fishing, and hiking.

The bill also provides for coordination with other Federal agricultural programs, for appointment of an advisory board, for coordination with local, State, Federal, and private conservation agencies, and particularly for appropriate measures to insure that the program is in harmony with wetland programs administered by the Secretary of the Interior.

We are not aware of any need for a new and separate program to promote conservation of waterfowl habitat. We believe that existing authority available to this Department for its on-going programs of waterfowl habitat preservation is adequate for the waterfowl habitat purposes of H.R. 15770. In our opinion, these programs would be prejudiced rather than helped by the establishment of overlapping and competing programs in another Department.

The draining, filling, and burning, which the landowner will agree to forego under a water bank contract, are like the rights the United States now acquires in the purchase of waterfowl production area easements by the Bureau of Sport Fisheries and Wildlife of this Department in its accelerated program of waterfowl land acquisition made possible by the act of October 4, 1961 (75 Stat. 813), as amended by the act of December 15, 1967 (81 Stat. 612; 16 U.S.C. 715k-3 and 715k-5). This accelerated program has the objective of protecting, by acquisition, 2,500,000 acres of waterfowl habitat by July 1976. Planned acquisition includes fee purchase of 750,000 acres of waterfowl refuges and 600,000 acres of waterfowl production areas, plus purchase of perpetual easements on 1,150,000 more acres of production areas. Since 1961, fee title has been acquired to 318,000 acres of refuges and 183,000 acres of small wetlands, and permanent easements have been obtained on over 700,000 acres of wetlands for a combined cost of \$73 million. Wetlands, nationwide, have many values, including storage of ground and surface waters for valuable wildlife habitat, recreation, ecological studies, and other purposes.

Enactment of the bill might result in situations where applications would be difficult because of developments under the program of the Bureau of Reclamation of this Department. For example, participation of farmers in the water bank program within a reclamation project could be influenced by landowner obligations for repayment of project construction and O. & M. costs. In addition, where project lands were included within a comprehensive drainage system, wetland maintenance might be beyond the control of individual landowners.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely yours,

FRED J. RUSSELL,
Under Secretary of the Interior.



DIGEST of Congressional Proceedings

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
(FOR INFORMATION ONLY;
NOT TO BE QUOTED OR CITED)

For actions of December 3, 1970
91st-2nd; No. 116

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HIGHLIGHTS: House committee reported egg products inspection bill.
Rep. Melcher criticized "the administration's deliberate lower farm price policies."
Rep. Mahon included current release on civilian personnel report.
Senate committee reported Water Bank bill; bill authorizing milk, tomato, and potato promotion; and bill amending peanut marketing quota provisions.
Sen. Packwood lauded ACP achievements and noted need to eliminate agriculture-related pollution.

HOUSE

1. FARM PRICES. Rep. Melcher warned "we are rushing toward an economic crisis in agriculture" as "the administration's deliberate lower farm price policies drive prices and the parity ratio down to the levels of the great depression of the thirties." pp. H1120-1

2. **BILLS REPORTED.**

Committee on Agriculture reported, with amendments, H.R. 19888, providing for the inspection of certain egg products (H. Rept. 91-1670). p. H11145

Committee on Public Works reported, with amendment, H.R. 19877, an omnibus rivers, harbors, and flood control bill (H. Rept. 91-1665). p. H11145

Committee on Post Office and Civil Service filed a report "Improved Manpower Management in the Federal Government" (H. Rept. 91-1657). p. H11145

3. **LEGISLATIVE PROGRAM.** The following bills will be among those considered Monday, Dec. 7, on the Consent Calendar:

H.R. 19877, omnibus rivers, harbors, and flood control bill;

H.R. 19846, proposed Animal Welfare Act of 1970;

H.R. 17582, to amend peanut marketing quota provisions;

S. 1079, Susquehanna River Basin Compact;

S. 1, equitable land acquisition and dislocation assistance policies;

H.R. 15188, penalty for shooting at certain animals from an aircraft;

H.R. 17436, to provide for a National Environmental Data Bank;

H.R. 19576, to establish the National Advisory Committee on the Oceans and Atmosphere. pp. H11118-9

4. **HOUSING AND URBAN DEVELOPMENT.** Passed H.R. 19436 after adopting, in addition to other amendments, an amendment that extends the log export amendment for 2 additional years. pp. H11088-11111

5. **ADJOURNED** until Monday, Dec. 7. p. H11145

SENATE

6. **APPROPRIATIONS; SUPPLEMENTAL APPROPRIATIONS.** Passed H.R. 17755, FY 1971 appropriations for the Department of Transportation, adopting all committee amendments, and two additional amendments eliminating funds for the SST program and deleting obligational authority restriction on highway beautification. pp. S19327-95

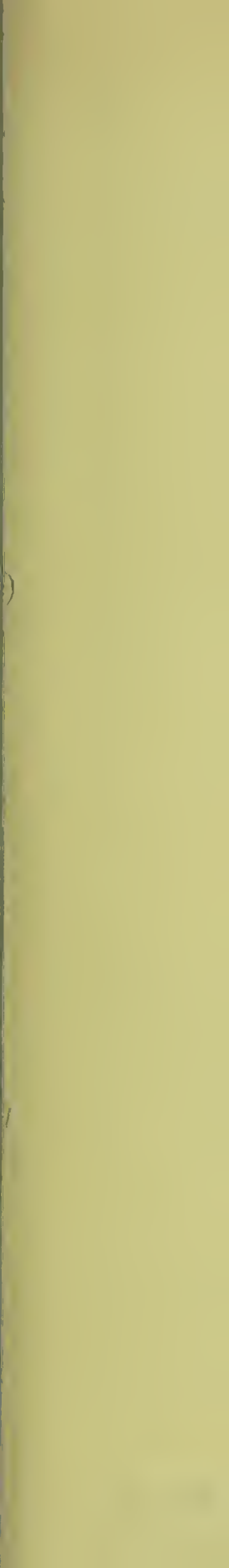
Received Proposed Supplemental Appropriations for the FY Ending June 30, 1971, from the President (S. Doc. No. 91-114); to Committee on Appropriations. pp. S19283-4

7. **~~WATER BANK; PEANUT ACREAGE ALLOTMENTS; RESEARCH & PROMOTION PROGRAMS FOR MILK, POTATOES AND TOMATOES.~~** Committee on Agriculture and Forestry reported without amendment ~~the following bills:~~

H.R. 15770, to preserve and improve wildlife habitat and water conservation, (S. Rept. 91-1393);

S. 4560, establishing a research and promotion program for milk, potatoes and tomatoes (S. Rept. 91-1400); and

S. 4561, establishing permanent authority for the sale and transfer of peanut acreage allotments (S. Rept. 91-1401). p. S19284



Calendar No. 1409

91ST CONGRESS
2^D SESSION

H. R. 15770

[Report No. 91-1393]

IN THE SENATE OF THE UNITED STATES

OCTOBER 7, 1970

Read twice and referred to the Committee on Commerce

OCTOBER 13, 1970

The Committee on Commerce discharged and referred to the Committee on
Agriculture and Forestry

DECEMBER 3, 1970

Reported by Mr. YOUNG of North Dakota, without amendment

AN ACT

To provide for conserving surface waters; to preserve and improve habitat for migratory waterfowl and other wildlife resources; to reduce runoff, soil and wind erosion, and contribute to flood control; and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Water Bank Act".

4 SEC. 2. The Congress finds that it is in the public inter-
5 est to preserve, restore, and improve the wetlands of the
6 Nation, and thereby to conserve surface waters, to preserve
7 and improve habitat for migratory waterfowl and other wild-
8 life resources, to reduce runoff, soil and wind erosion, and
9 contribute to flood control, to contribute to improved water

1 quality and reduce stream sedimentation, to contribute to im-
2 proved subsurface moisture, to reduce acres of new land com-
3 ing into production and to retire lands now in agricultural
4 production, to enhance the natural beauty of the landscape,
5 and to promote comprehensive and total water management
6 planning. The Secretary of Agriculture (hereinafter in this
7 Act referred to as the "Secretary") is authorized and directed
8 to formulate and carry out a continuous program to prevent
9 the serious loss of wetlands, and to preserve, restore, and
10 improve such lands, which program shall begin on July 1,
11 1971.

12 SEC. 3. In effectuating the water bank program author-
13 ized by this Act, the Secretary shall have authority to enter
14 into agreements with landowners and operators in important
15 migratory waterfowl nesting and breeding areas for the con-
16 servation of water on specified farm, ranch, or other wetlands
17 identified in a conservation plan developed in cooperation
18 with the Soil and Water Conservation District in which the
19 lands are located, under such rules and regulations as the
20 Secretary may prescribe. These agreements shall be entered
21 into for a period of ten years, with provision for renewal
22 for additional periods of ten years each. The Secretary
23 shall reexamine the payment rates at the beginning of any
24 such ten-year renewal period in the light of the then current
25 land and crop values and make needed adjustments in rates

1 for any such renewal period. As used in this Act, the term
2 "wetlands" means the inland fresh areas (types 1 through
3 5) described in Circular 39, Wetlands of the United States,
4 published by the United States Department of the Interior
5 (including artificially developed inland fresh areas which
6 meet the description of inland fresh areas, types 1 through
7 5, contained in such Circular 39). No agreement shall be
8 entered into under this Act concerning land with respect to
9 which the ownership or control has changed in the two-year
10 period preceding the first year of the agreement period un-
11 less the new ownership was acquired by will or succession as
12 a result of the death of the previous owner, or unless the new
13 ownership was acquired prior to July 1, 1971, under other
14 circumstances which the Secretary determines, and specifies
15 by regulation, will give adequate assurance that such land
16 was not acquired for the purpose of placing it in the pro-
17 gram, except that this sentence shall not be construed to pro-
18 hibit the continuation of an agreement by a new owner or
19 operator after an agreement has once been entered into
20 under this Act. A person who has operated the land to be
21 covered by an agreement under this Act for as long as two
22 years preceding the date of the agreement and who controls
23 the land for the agreement period shall not be required to
24 own the land as a condition of eligibility for entering into
25 the agreement. Nothing in this section shall prevent an

1 owner or operator from placing land in the program if the
2 land was acquired by the owner or operator to replace eli-
3 gible land from which he was displaced because of its acquisi-
4 tion by any Federal, State, or other agency having the right
5 of eminent domain. The Secretary shall provide adequate
6 safeguards to protect the interests of tenants and share-
7 croppers, including provision for sharing, on a fair and
8 equitable basis, in payments or compensation under this
9 program. No provision of this Act shall prevent an owner
10 or operator who is participating in the program under this
11 Act from participating in other Federal or State programs
12 designed to conserve or protect wetlands.

13 SEC. 4. In the agreement between the Secretary and an
14 owner or operator, the owner or operator shall agree—

15 (1) to place in the program for the period of the
16 agreement eligible wetland areas he designates, which
17 areas may include wetlands covered by a Federal or
18 State government easement which permits agricultural
19 use, together with such adjacent areas as determined
20 desirable by the Secretary;

21 (2) not to drain, burn, fill, or otherwise destroy
22 the wetland character of such areas, nor to use such
23 areas for agricultural purposes, as determined by the
24 Secretary;

25 (3) to effectuate the wetland conservation and de-

1 velopment plan for his land in accordance with the terms
2 of the agreement, unless any requirement thereof is
3 waived or modified by the Secretary pursuant to section
4 7 of this Act;

5 (4) to forfeit all rights to further payments or grants
6 under the agreement and refund to the United States all
7 payments or grants received thereunder upon his viola-
8 tion of the agreement at any stage during the time he
9 has control of the land subject to the agreement if the
10 Secretary determines that such violation is of such a
11 nature as to warrant termination of the agreement, or to
12 make refunds or accept such payment adjustments as the
13 Secretary may deem appropriate if he determines that
14 the violation by the owner or operator does not warrant
15 termination of the agreement;

16 (5) upon transfer of his right and interest in the
17 lands subject to the agreement during the agreement
18 period, to forfeit all rights to further payments or grants
19 under the agreement and refund to the United States all
20 payments or grants received thereunder during the year
21 of the transfer unless the transferee of any such land
22 agrees with the Secretary to assume all obligations of
23 the agreement;

24 (6) not to adopt any practice specified by the

1 Secretary in the agreement as a practice which would
2 tend to defeat the purposes of the agreement; and

3 (7) to such additional provisions as the Secretary
4 determines are desirable and includes in the agreement
5 to effectuate the purposes of the program or to facilitate
6 its administration.

7 SEC. 5. In return for the agreement of the owner or
8 operator, the Secretary shall (1) make an annual payment
9 to the owner or operator for the period of the agreement at
10 such rate or rates as the Secretary determines to be fair and
11 reasonable in consideration of the obligations undertaken by
12 the owner or operator; and (2) bear such part of the aver-
13 age cost of establishing and maintaining conservation and
14 development practices on the wetlands and adjacent areas
15 for the purposes of this Act as the Secretary determines to
16 be appropriate. In making his determination, the Secretary
17 shall consider, among other things, the rate of compensation
18 necessary to encourage owners or operators of wetlands to
19 participate in the water bank program. The rate or rates
20 of annual payments as determined hereunder shall be in-
21 creased, by an amount determined by the Secretary to be
22 appropriate, in relation to the benefit to the general public
23 of the use of the wetland areas, together with designated ad-
24 jacent areas, if the owner or operator agrees to permit, with-
25 out other compensation, access to such acreage by the general

1 public, during the agreement period, for hunting, trapping,
2 fishing, and hiking, subject to applicable State and Federal
3 regulations.

4 SEC. 6. Any agreement may be renewed or extended
5 at the end of the agreement period for an additional period
6 of ten years by mutual agreement of the Secretary and the
7 owner or operator, subject to any rate redetermination by
8 the Secretary. If during the agreement period the owner
9 or operator sells or otherwise divests himself of the owner-
10 ship or right of occupancy of such land, the new owner
11 or operator may continue such agreement under the same
12 terms or conditions, or enter into a new agreement in accord-
13 ance with the provisions of this Act, including the provisions
14 for renewal and adjustment of payment rates, or he may
15 choose not to participate in such program.

16 SEC. 7. The Secretary may terminate any agreement
17 by mutual agreement with the owner or operator if the
18 Secretary determines that such termination would be in the
19 public interest, and may agree to such modification of agree-
20 ments as he may determine to be desirable to carry out the
21 purposes of the program or facilitate its administration.

22 SEC. 8. In carrying out the program, the Secretary may
23 utilize the services of local, county, and State committees
24 established under section 8 of the Soil Conservation and
25 Domestic Allotment Act, as amended. The Secretary is

1 authorized to utilize the facilities and services of the Com-
2 modity Credit Corporation in discharging his functions and
3 responsibilities under this program.

4 SEC. 9. The Secretary may, without regard to the civil
5 service laws, appoint an Advisory Board to advise and con-
6 sult on matters relating to his functions under this Act as he
7 deems appropriate. The Board shall consist of persons chosen
8 from members of organizations such as wildlife organizations,
9 land-grant colleges, farm organizations, State game and
10 fish departments, soil and water conservation district asso-
11 ciations, water management organizations, and represent-
12 atives of the general public. Members of such an Advisory
13 Board who are not regular full-time employees of the United
14 States shall be entitled to reimbursement on an actual ex-
15 pense basis for attendance at Advisory Board meetings.

16 SEC. 10. The Secretary shall consult with the Secretary
17 of the Interior and take appropriate measures to insure that
18 the program carried out pursuant to this Act is in harmony
19 with wetlands programs administered by the Secretary of the
20 Interior. He shall also, insofar as practicable, consult with
21 and utilize the technical and related services of appropriate
22 local, State, Federal, and private conservation agencies to
23 assure coordination of the program with programs of such
24 agencies and a solid technical foundation for the program.

25 SEC. 11. There are hereby authorized to be appropriated

1 without fiscal year limitation, such sums as may be neces-
2 sary to carry out the program authorized by this Act. In
3 carrying out the program, the Secretary shall not enter into
4 agreements with owners and operators which would require
5 payments to owners or operators in any calendar year under
6 such agreements in excess of \$10,000,000.

7 SEC. 12. The Secretary shall prescribe such regulations
8 as he determines necessary and desirable to carry out the
9 provisions of this Act.

Passed the House of Representatives October 5, 1970.

Attest:

W. PAT JENNINGS,

Clerk.

91ST CONGRESS
2^D SESSION

H. R. 15770

[Report No. 91-1393]

AN ACT

To provide for conserving surface waters; to preserve and improve habitat for migratory waterfowl and other wildlife resources; to reduce runoff, soil and wind erosion, and contribute to flood control; and for other purposes.

OCTOBER 7, 1970

Read twice and referred to the Committee on
Commerce

OCTOBER 13, 1970

The Committee on Commerce discharged and referred
to the Committee on Agriculture and Forestry

DECEMBER 3, 1970

Reported without amendment

Dec. 7, 1970

HOUSE

2. BILLS PASSED.

S. 1079, consenting to the Susquehanna River Basin compact. This bill now goes to the President. pp. H11150-64

H.R. 19402, authorizing the acceptance of gifts for the National Agricultural Library. pp. H11149-50

The following were passed under suspension of the rules:

S. 437, relating to survivor annuities under the civil service retirement program; agreed to an amendment in the nature of a substitute. pp. H11185-9

H.R. 19877, an omnibus rivers, harbors, and flood control bill. pp. H11189-206

H.R. 19846 with amendment, proposed animal welfare bill. pp. H11206-12

H.R. 17582, amending peanut marketing quota provisions. pp. H11213-4

S. 1, with amendment, providing relocation assistance and establishing equitable land acquisition policies. pp. H11216-25

H.R. 15188, amended, providing a criminal penalty for shooting at certain animals from an aircraft. pp. H11257-9

H.R. 17436, with amendment, providing for a National Environmental Data System. pp. H11259-62

H.R. 19576, amended, establishing the National Advisory Committee on the Oceans and Atmosphere. pp. H11262-4

3. TARIFFS. Committee on Ways and Means reported with amendment, H.R. 7626, amending the Tariff Schedules with respect to the tariff classification of certain sugars, sirups, and molasses (H. Rept. 91-1674). p, H11298

4. HIGHWAY CONSTRUCTION. Vacated previous action of passing and laying on the table of H.R. 19504; subsequently repassed bill. pp. H11147

5. FOREIGN TRADE. Rep. Findley warned of possible retaliation against soybean exports if trade bill passes. pp. H11285-6

6. CHARLES B. SHUMAN. Rep. Findley paid tribute to Mr. Charles B. Shuman upon his retirement as President of the American Farm Bureau Federation. p. H11286

7. REP. POAGE. Rep. Cabell joined in honoring Chairman Poage upon the announcement of the building of the "Bob Poage Land Technology Center" on the Texas State Technical Institute campus in Waco, Texas. pp. H11286

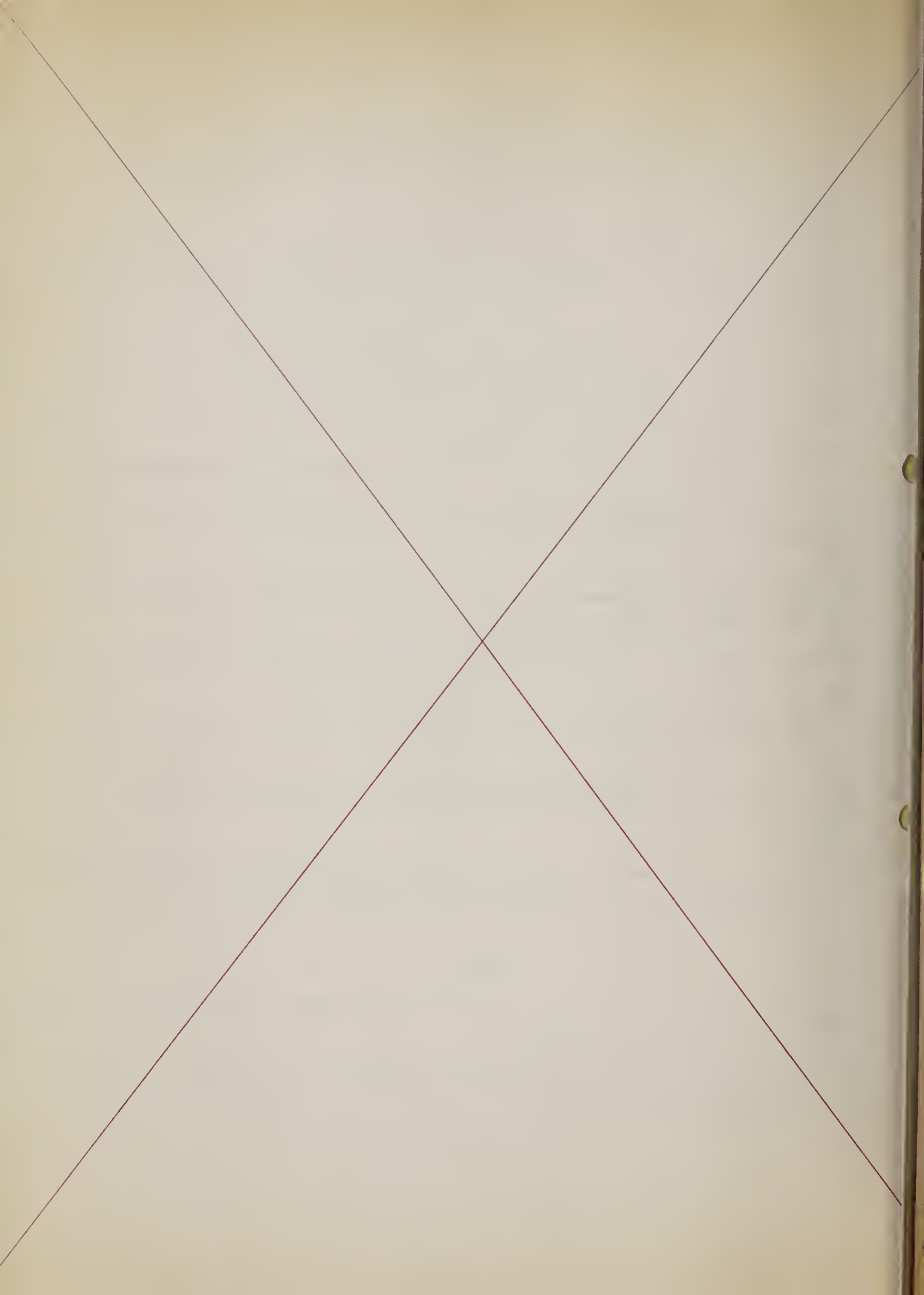
SENATE

8. APPROPRIATIONS; WATER BANK ACT; WILDLIFE & WATER FOWL. Passed without amendment and cleared for the President:

H.R. 19830, FY 1971 Appropriations for HUD; and

H.R. 15770, to preserve and improve wildlife habitat (Water Bank Act).

pp. S19521-59; S19485-6





United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 91st CONGRESS, SECOND SESSION

Vol. 116

WASHINGTON, MONDAY, DECEMBER 7, 1970

No. 195

Senate

The Senate met at 12 meridian and was called to order by the Acting President pro tempore (Mr. METCALF).

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

God of grace and God of glory, who long ago illumined the nightly sky with the promise of peace, prepare our hearts for the new advent of Him whose rule is the way to a man's freedom and enduring peace. Strengthen in mind and heart all who labor in this place. Amid the bewilderment and uncertainty about many things make us sure of Thee. May we be unafraid because we have heard the ancient message echoing down the years: "Fear not, for behold I bring you good tidings of great joy which shall be to all people." While we work may we also pray and make ready our hearts for the coming again of Him who brings redemption and peace.

In the name of the Prince of Peace. Amen.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States submitting nominations were communicated to the Senate by Mr. Geisler, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore (Mr. METCALF) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the Committee on Foreign Relations.

(For nominations received today, see the end of Senate proceedings.)

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Friday, December 4, 1970, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

WAIVER OF CALL OF CALENDAR UNDER RULE VIII

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the calling of

the calendar of unobjected to bills under rule VIII be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

TRANSACTION OF ROUTINE BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that statements in relation to the transaction of routine morning business be limited to 3 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of certain bills on the calendar, beginning with Calendar No. 1408.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

TRANSFER OF PEANUT ACREAGE ALLOTMENTS

The bill (S. 4561) to amend the peanut marketing quota provisions to make permanent certain provisions thereunder, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 4561

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 358a of the Agricultural Adjustment Act of 1938, as amended, is further amended as follows:

(1) Subsection (a) thereof is amended by deleting ", 1969 and 1970" and inserting in lieu thereof "and succeeding".

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91-1401) explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

EXPLANATION

This bill would make the authority of the Secretary of Agriculture to permit transfers of peanut acreage allotments permanent. Section 358a was added to the Agricultural Adjustment Act of 1938 by Public Law 90-211 on December 18, 1967, effective for the 1968 and 1969 crop years. It was extended to 1970 by Public Law 91-122 on November 21, 1969. It should now be made permanent in order to enable peanut farmers to acquire allotments of adequate size for efficient farming operations.

COST

Enactment of the bill will not require additional funds.

WATER BANK ACT

The bill (H.R. 15770) to provide for conserving surface waters; to preserve and improve habitat for migratory waterfowl and other wildlife resources; to reduce runoff, soil and wind erosion, and contribute to flood control; and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91-1393), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

SHORT EXPLANATION

This bill authorizes the Secretary of Agriculture to enter into 10 year renewable contracts with landowners and operators in important migratory waterfowl nesting and breeding areas for the conservation of water on specified wetlands.

NEED FOR THE BILL

Each year untold acres of valuable waterfowl habitat are lost forever. These lands are rapidly disappearing because of the accelerated pace in which marshes and swamps are being ditched, dredged, drained, filled, paved, and polluted in order to meet the demands of modern civilization. These encroachments are caused by the constant need for more agricultural lands, more industrial sites, more urban housing developments, more roads, and more airports.

H.R. 15770, would provide the owners and operators of these lands, which are so valuable to migratory waterfowl, an economic alternative to such uses.

BACKGROUND

In 1961, the Congress enacted the Wetlands Loan Act (Public Law 87-383). The act had, as its objective, the acquisition of 2.5 million acres of waterfowl habitat over a 7-year period. In 1967 the act was extended for an additional 8 years, until June 30, 1976.

Under the original goal, it was planned to purchase 750,000 acres of waterfowl refuges and 1,750,000 acres of waterfowl production areas of small wetlands. The latter figure includes fee purchase of 600,000 acres and purchase of perpetual easements on 1,150,000 acres. From 1961 to date, fee title has been acquired by the Secretary of the Interior on approximately 318,000 acres of refuges and 183,000 acres of waterfowl production areas. Easements have been purchased on approximately 700,000 additional acres of wetlands.

Unfortunately, the program has not proceeded at the pace anticipated. First there was considerable delay in getting the program started. Second, local opposition to the program developed in certain key States because of the impact of the program on county revenues. Third, some delay was, and still is caused by rising costs of land acquisitions. Fourth, the program never has been sufficiently founded. Fifth, the drainage of wetlands for agriculture, flood control, reclamation projects, and urban and industrial purposes has drastically reduced the number of acres that would be available for the program.

In fact, drainage of wetlands had been so extensive that by 1950, approximately half of the wetlands of the prairie pothole regions of the United States had been drained. This drainage has since continued and in North Dakota alone, approximately 45,000 acres of wetlands are being lost to drainage programs each year.

The objective of the waterfowl production area program carried out by the Secretary of the Interior is to preserve waterfowl breeding habitat by acquiring land, or interests in land, to prevent destruction of its wetlands character. The basic concept is to acquire the more permanent types of wetlands in fee as nucleus areas throughout the prairie pothole area. These are the deeper marshes which, barring drainage, can be expected to retain water throughout the farming season year after year. These permanent pothole areas generally include adjacent upland which increases the nesting potential of the pothole. Surrounding these nucleus areas are less permanent types of wetlands (including both shallow marshes and lands only intermittently under water) which afford additional breeding habitat during wet years, but may contain no water in drouth periods. These are the areas on which the Secretary acquires easements to prevent draining, filling, or burning of marsh vegetation. Both permanent potholes and temporary wetlands areas are necessary for maximum production.

BILL PASSED OVER

The bill (H.R. 2335) for the relief of Enrico DeMonte was announced as next in order.

Mr. MANSFIELD. Over.

The ACTING PRESIDENT pro tempore. The bill will be passed over.

BEASLEY ENGINEERING CO., INC.

The bill (H.R. 2876) for the relief of the Beasley Engineering Co., Inc., was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91-1395), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of the bill is to pay the Beasley Engineering Co., Inc., of Emeryville, Calif., \$11,873.27 in full satisfaction of its claims against the United States for losses sustained as a result of damage or destruction caused by floods to work already completed on The Dalles Irrigation system.

STATEMENT

In its favorable report on this bill, the Committee on the Judiciary of the House of Representatives said:

The bill, H.R. 2876, as amended by the committee, provides for a payment of \$11,873.27 in accordance with the recommendation of the Comptroller General, as set forth in his letter of June 5, 1968, which is set out following this report. This relief is also consistent with the recommendation of the Bureau of the Budget referred to in the report of the Department of the Interior dated May 21, 1968. In both instances it was the recommendation that the relief provided in the bill should be limited to 50 percent of the amount found by the Department of the Interior to be directly attributable to flood repair work performed by the Beasley Engineering Co. The Department of the Interior in its report stated that it had determined that the losses directly attributable to the flood equaled \$23,746.55. In providing for a payment of one-half of this figure, the committee is equating relief to that provided in the Federal Disaster Act (Public Law 89-769) concerning Federal assistance to States and local governments to alleviate suffering and damages resulting from major disasters. While the losses referred to in this bill were not of a type for which relief is provided under that act, for the reasons outlined in this report, the same scheme of compensation has been adopted by the committee as a basis for its recommendation in this instance.

The Beasley Engineering Co., Inc., was awarded a contract in the approximate amount of \$3,015,811 on October 3, 1963, by the Bureau of Reclamation for the construction of an irrigation system for The Dalles Irrigation District. The contract was to be completed by March 12, 1965. This irrigation system was located in Wasco County, Oreg., within the area of the Pacific Northwest hit by the unprecedented storms and floods in the latter part of December 1964, and was also within the major disaster area declared by the President. At the time of the floods, the construction project was ahead of schedule, with approximately 86 percent of the work completed, including 96 percent of the pipeline distribution system being in place. The completed portion of the work had been inspected and was ready for acceptance by the United States subject only to operational testing.

The severe flooding caused by the 1964 storm damaged the irrigation system. The Dalles Irrigation District asked that the system be restored, and the Office of Emergency Planning requested the Bureau of Reclamation to perform disaster assistance for the Dalles Irrigation system. Because of the conflict raised by the request of the Office of Emergency Planning and the responsibility of the contractor under the terms of his contract, the Comptroller General was asked for his opinion as to whether the restoration work performed by Beasley Engineering Co., Inc., was eligible for payment under the provisions of Public Law 875, 81st Congress. The Comptroller General informed the Interior Department on May 2, 1965 (see B-152747) that in his opinion the restoration work was not eligible for payment because the United States had not accepted the work from the contractor, and under the terms of the contract the builder had an obligation to make needed repairs on

the work prior to acceptance by the United States. It appears that if the work had been accepted prior to the floods, the restoration work would have been eligible for payment under the provisions of Public Law 875, 81st Congress.

The ruling of the Comptroller General prevents the Department of the Interior from making any payment to Beasley Engineering Co., Inc., under either the provisions of Public Law 875, 81st Congress, or Public Law 89-769. The latter act was passed by the Congress shortly after the disastrous floods of the winter of 1964 to help relieve the damage and suffering in that area.

Section 9 of Public Law 89-769 authorizes an appropriation to reimburse up to 50 percent of "eligible costs incurred to repair, restore, or reconstruct any project * * * for * * * irrigation, * * * which was damaged or destroyed as a result of a major disaster, and of the resulting additional eligible costs incurred to complete any facility which was in the process of construction." The committee has concluded that the provisions of section 9 of Public Law 89-769 would not have any application to this case because this facility had not been turned over to the local governmental agency that would have responsibility for it.

A similar bill in the 90th Congress, H.R. 8588, was the subject of a subcommittee hearing on May 22, 1968. Representatives of the Beasley Engineering Co. appeared at the hearing and testified concerning the facts outlined above. The result has been that the company suffered a private loss under circumstances where had the work been accepted by the Government there would have been a basis for relief to the irrigation district had the project been turned over to the irrigation district. The extensive flooding so changed water courses and areas traversed by the pipeline constructed by the company that numerous change orders were necessary to permit a relocation of the pipeline. The report submitted to the committee by the Department of the Interior refers to these change orders and notes that \$27,705.21 was paid the company in connection with those changes. That report states that the Government contracting officer found that the total direct cost of repairing flood damage was \$51,451.76. At the hearing it was noted that this figure does not cover the indirect cost suffered by the company involved in the delays resulting from the flood and the necessity to retain personnel on the payroll and keep equipment and material on the job for an extended period of time. However, in seeking to make an equitable adjustment of the matter the committee concluded that the figure ascertained by the Interior Department should be taken as the basis for the loss, that is, \$51,451.76. The amount paid for change orders under the contract, \$27,705.21, is deducted from this figure to leave the amount directly attributable to the flood which has not been covered by other payments. This is the \$23,746.55, the amount stated in the bill, H.R. 2876, as originally introduced in the present Congress. The Department of the Interior has stated that it is opposed to payment in excess of \$23,746.55 and has recommended that the claimant be limited to that amount. The bill, H.R. 8588, was favorably reported and passed the House in the 90th Congress, and provided for payment of that amount. (H. Rept. 1693, 90th Cong., 2d sess.)

The report of the Department of the Interior indicated that the ruling of the Comptroller General prevents any payment to the Beasley Engineering Co. under Public Law 875 of the 81st Congress or Public Law 89-769. The 89th Congress law was passed shortly after the floods of the winter of 1964 for the express purpose of helping to relieve the damage and suffering caused in the area in



Public Law 91-559
91st Congress, H. R. 15770
December 19, 1970

An Act

To provide for conserving surface waters; to preserve and improve habitat for migratory waterfowl and other wildlife resources; to reduce runoff, soil and wind erosion, and contribute to flood control; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Water Bank Act".

SEC. 2. The Congress finds that it is in the public interest to preserve, restore, and improve the wetlands of the Nation, and thereby to conserve surface waters, to preserve and improve habitat for migratory waterfowl and other wildlife resources, to reduce runoff, soil and wind erosion, and contribute to flood control, to contribute to improved water quality and reduce stream sedimentation, to contribute to improved subsurface moisture, to reduce acres of new land coming into production and to retire lands now in agricultural production, to enhance the natural beauty of the landscape, and to promote comprehensive and total water management planning. The Secretary of Agriculture (hereinafter in this Act referred to as the "Secretary") is authorized and directed to formulate and carry out a continuous program to prevent the serious loss of wetlands, and to preserve, restore, and improve such lands, which program shall begin on July 1, 1971.

SEC. 3. In effectuating the water bank program authorized by this Act, the Secretary shall have authority to enter into agreements with landowners and operators in important migratory waterfowl nesting and breeding areas for the conservation of water on specified farm, ranch, or other wetlands identified in a conservation plan developed in cooperation with the Soil and Water Conservation District in which the lands are located, under such rules and regulations as the Secretary may prescribe. These agreements shall be entered into for a period of ten years, with provision for renewal for additional periods of ten years each. The Secretary shall reexamine the payment rates at the beginning of any such ten-year renewal period in the light of the then current land and crop values and make needed adjustments in rates for any such renewal period. As used in this Act, the term "wetlands" means the inland fresh areas (types 1 through 5) described in Circular 39, Wetlands of the United States, published by the United States Department of the Interior (including artificially developed inland fresh areas which meet the description of inland fresh areas, types 1 through 5, contained in such Circular 39). No agreement shall be entered into under this Act concerning land with respect to which the ownership or control has changed in the two-year period preceding the first year of the agreement period unless the new ownership was acquired by will or succession as a result of the death of the previous owner, or unless the new ownership was acquired prior to July 1, 1971, under other circumstances which the Secretary determines, and specifies by regulation, will give adequate assurance that such land was not acquired for the purpose of placing it in the program, except that this sentence shall not be construed to prohibit the continuation of an agreement by a new owner or operator after an agreement has once been entered into under this Act. A person who has operated the land to be covered by an agreement under this Act for as long as two years preceding the date of the agreement and who controls the land for the agreement period shall not be required to own the land as a condition of eligibility for entering into the agreement. Nothing in this section shall prevent an owner or operator from placing land in the program if the land was acquired by the owner or operator to replace eligible land from which he was displaced because of its acquisition by any Federal, State, or other agency having the right of eminent domain.

Water Bank
Act.

Water bank
program.

84 STAT. 1468
84 STAT. 1469

Conservation
agreements.

"Wetlands."

Safeguards.

The Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers, including provision for sharing, on a fair and equitable basis, in payments or compensation under this program. No provision of this Act shall prevent an owner or operator who is participating in the program under this Act from participating in other Federal or State programs designed to conserve or protect wetlands.

Agreement provisions.

SEC. 4. In the agreement between the Secretary and an owner or operator, the owner or operator shall agree—

(1) to place in the program for the period of the agreement eligible wetland areas he designates, which areas may include wetlands covered by a Federal or State government easement which permits agricultural use, together with such adjacent areas as determined desirable by the Secretary;

(2) not to drain, burn, fill, or otherwise destroy the wetland character of such areas, nor to use such areas for agricultural purposes, as determined by the Secretary;

(3) to effectuate the wetland conservation and development plan for his land in accordance with the terms of the agreement, unless any requirement thereof is waived or modified by the Secretary pursuant to section 7 of this Act;

(4) to forfeit all rights to further payments or grants under the agreement and refund to the United States all payments or grants received thereunder upon his violation of the agreement at any stage during the time he has control of the land subject to the agreement if the Secretary determines that such violation is of such a nature as to warrant termination of the agreement, or to make refunds or accept such payment adjustments as the Secretary may deem appropriate if he determines that the violation by the owner or operator does not warrant termination of the agreement;

(5) upon transfer of his right and interest in the lands subject to the agreement during the agreement period, to forfeit all rights to further payments or grants under the agreement and refund to the United States all payments or grants received thereunder during the year of the transfer unless the transferee of any such land agrees with the Secretary to assume all obligations of the agreement;

(6) not to adopt any practice specified by the Secretary in the agreement as a practice which would tend to defeat the purposes of the agreement; and

(7) to such additional provisions as the Secretary determines are desirable and includes in the agreement to effectuate the purposes of the program or to facilitate its administration.

Annual payments.

SEC. 5. In return for the agreement of the owner or operator, the Secretary shall (1) make an annual payment to the owner or operator for the period of the agreement at such rate or rates as the Secretary determines to be fair and reasonable in consideration of the obligations undertaken by the owner or operator; and (2) bear such part of the average cost of establishing and maintaining conservation and development practices on the wetlands and adjacent areas for the purposes of this Act as the Secretary determines to be appropriate. In making his determination, the Secretary shall consider, among other things,

the rate of compensation necessary to encourage owners or operators of wetlands to participate in the water bank program. The rate or rates of annual payments as determined hereunder shall be increased, by an amount determined by the Secretary to be appropriate, in relation to the benefit to the general public of the use of the wetland areas, together with designated adjacent areas, if the owner or operator agrees to permit, without other compensation, access to such acreage by the general public, during the agreement period, for hunting, trapping, fishing, and hiking, subject to applicable State and Federal regulations.

SEC. 6. Any agreement may be renewed or extended at the end of the agreement period for an additional period of ten years by mutual agreement of the Secretary and the owner or operator, subject to any rate redetermination by the Secretary. If during the agreement period the owner or operator sells or otherwise divests himself of the ownership or right of occupancy of such land, the new owner or operator may continue such agreement under the same terms or conditions, or enter into a new agreement in accordance with the provisions of this Act, including the provisions for renewal and adjustment of payment rates, or he may choose not to participate in such program.

Agreement
renewal.

SEC. 7. The Secretary may terminate any agreement by mutual agreement with the owner or operator if the Secretary determines that such termination would be in the public interest, and may agree to such modification of agreements as he may determine to be desirable to carry out the purposes of the program or facilitate its administration.

Termination.

SEC. 8. In carrying out the program, the Secretary may utilize the services of local, county, and State committees established under section 8 of the Soil Conservation and Domestic Allotment Act, as amended. The Secretary is authorized to utilize the facilities and services of the Commodity Credit Corporation in discharging his functions and responsibilities under this program.

Services and
facilities,
utilization.
49 Stat. 1149.
16 USC 590h.

SEC. 9. The Secretary may, without regard to the civil service laws, appoint an Advisory Board to advise and consult on matters relating to his functions under this Act as he deems appropriate. The Board shall consist of persons chosen from members of organizations such as wildlife organizations, land-grant colleges, farm organizations, State game and fish departments, soil and water conservation district associations, water management organizations, and representatives of the general public. Members of such an Advisory Board who are not regular full-time employees of the United States shall be entitled to reimbursement on an actual expense basis for attendance at Advisory Board meetings.

Advisory
Board.

SEC. 10. The Secretary shall consult with the Secretary of the Interior and take appropriate measures to insure that the program carried out pursuant to this Act is in harmony with wetlands programs administered by the Secretary of the Interior. He shall also, insofar as practicable, consult with and utilize the technical and related services of appropriate local, State, Federal, and private conservation agencies to assure coordination of the program with programs of such agencies and a solid technical foundation for the program.

Congruity
of programs.

SEC. 11. There are hereby authorized to be appropriated without fiscal year limitation, such sums as may be necessary to carry out the

Appropriation.

program authorized by this Act. In carrying out the program, the Secretary shall not enter into agreements with owners and operators which would require payments to owners or operators in any calendar year under such agreements in excess of \$10,000,000.

Sec. 12. The Secretary shall prescribe such regulations as he determines necessary and desirable to carry out the provisions of this Act.

Approved December 19, 1970.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 91-1307 (Comm. on Merchant Marine and Fisheries).

SENATE REPORT No. 91-1393 (Comm. on Agriculture and Forestry).

CONGRESSIONAL RECORD, Vol. 116 (1970):

Oct. 5, considered and passed House.

Dec. 7, considered and passed Senate.